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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, November 19, 2013
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2012–0042]

RIN 0579–AD69

Importation of Fresh Beans, Shelled or in Pods, From Jordan Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the fruits and vegetables regulations to allow the importation of commercial shipments of fresh beans, shelled or in pods (French, green, snap, and string), from Jordan into the continental United States. As a condition of entry, the beans must be produced in accordance with a systems approach that includes requirements for packing, washing, and processing. The beans must also be accompanied by a phytosanitary certificate attesting that all phytosanitary requirements have been met and that the consignment was inspected and found free of quarantine pests. This action allows for the importation of fresh beans, shelled or in pods, from Jordan into the continental United States while continuing to provide protection against the introduction of plant pests.

DATES: *Effective Date:* December 19, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Senior Regulatory Coordination Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 156, Riverdale, MD 20737–1231; (301) 851–2114.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart-Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–61, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

On May 2, 2013, we published in the **Federal Register** (78 FR 25623–25626, Docket No. APHIS–2012–0042) a proposal [1] to amend the regulations to allow the importation of commercial shipments of fresh beans, shelled or in pods (French, green, snap, and string), from Jordan into the continental United States. As a condition of entry, the beans were required to be produced in accordance with a systems approach that includes requirements for packing, washing, and processing. The beans were also required to be accompanied by a phytosanitary certificate attesting that all phytosanitary requirements had been met and that the consignment was inspected and found free of quarantine pests. This proposed action was intended to allow for the importation of fresh beans, shelled or in pods, from Jordan into the continental United States while continuing to provide protection against the introduction of plant pests.

We solicited comments concerning our proposal for 60 days ending July 1, 2013. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Note: In our May 2013 proposed rule, we proposed to add the conditions governing the importation of beans from Jordan as § 319.56–59. In this final rule, those conditions are added as § 319.56–62.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

The Small Business Administration's small-entity standard for U.S. farms that produce fresh beans is annual receipts of not more than $750,000. In 2007, the average market value of sales by the 15,654 U.S. farms that produced snap beans for the fresh market was about $25,400, well below the small-entity standard.

Jordan expects to export 200 metric tons of fresh beans to the continental United States annually. This quantity is equivalent to less than one-tenth of 1 percent of U.S fresh snap bean production. While most entities that may be affected by the final rule are small, the impact of the rule will be minor.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule allows fresh beans, shelled or in pods, to be imported into the United States from Jordan. State and local laws and regulations regarding fresh beans imported under this rule will be preempted while the fruit is in foreign commerce. Fresh beans are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579–0405, have been submitted for approval to the

[1] To view the proposed rule and the pest risk analysis we prepared for that action, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0042*.

Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. A new § 319.56–62 is added to read as follows:

§ 319.56–62 Fresh beans, shelled or in pods, from Jordan.

Fresh beans (*Phaseolus vulgaris* L.), shelled or in pods (French, green, snap, and string), may be imported into the continental United States from Jordan only under the conditions described in this section. These conditions are designed to prevent the introduction of the following quarantine pests: *Chrysodeixis chalcites, Helicoverpa armígera, Lampides boeticus Liriomyza huidobrensis, Maconellicoccus hirsutus, Phoma exigua* var. *diversispora,* and *Spodoptera littoralis.*

(a) *Packinghouse requirements.* The beans must be packed in packing facilities that are approved and registered with Jordan's national plant protection organization (NPPO). Each shipping box must be marked with the identity of the packing facility.

(b) *Post-harvest processing.* The beans must be washed in potable water. Each bean pod must be either cut into chevrons or pieces that do not exceed 2 centimeters in length, or shredded or split the length of the bean pod. Split or shredded bean pod pieces may not exceed 8 centimeters in length and 8.5 millimeters in diameter.

(c) *Commercial consignments.* The beans must be imported as commercial consignments only.

(d) *Phytosanitary certificate.* Each consignment of fresh beans must be accompanied by a phytosanitary certificate issued by Jordan's NPPO attesting that the conditions of this section have been met and that the consignment has been inspected and found free of the pests listed in this section.

(Approved by the Office of Management and Budget under control number 0579–0405)

Done in Washington, DC, this 13th day of November 2013.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–27689 Filed 11–18–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1726

Electric System Construction Policies and Procedures

CFR Correction

In Title 7 of the Code of Federal Regulations, Parts 1600 to 1759, revised as of January 1, 2013, on page 246, in § 1726.14, the second definition of *Minor modification or improvement* is removed.

[FR Doc. 2013–27735 Filed 11–18–13; 8:45 am]

BILLING CODE 1505–01–D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 95

[NRC–2011–0268]

RIN 3150–AJ07

Facility Security Clearance and Safeguarding of National Security Information and Restricted Data

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of October 21, 2013, for the direct final rule that was published in the **Federal Register** on August 7, 2013. This direct final rule updated the NRC's regulations to standardize the frequency of required security education training for employees of NRC licensees possessing security clearances so that such training will be conducted annually consistent with the objectives of Executive Order 13526, Classified National Security Information. In addition, this direct final rule allowed licensees flexibility in determining the means and methods for providing this training, established uniformity in the frequency of licensee security education and training programs, and enhanced the protection of classified information.

DATES: The effective date of October 21, 2013, is confirmed for this direct final rule.

ADDRESSES: Please refer to Docket ID NRC–2011–0268 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0268. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select *''ADAMS Public Documents''* and then select *''Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Daniel W. Lenehan, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3501; email: *Daniel.Lenehan@nrc.gov.*

SUPPLEMENTARY INFORMATION: On August 7, 2013 (78 FR 48037), the NRC published a direct final rule that amended its regulations in § 95.33 of Title 10 of the *Code of Federal Regulations.* The direct final rule amendments required NRC licensees (or their designees) to conduct classified

information security refresher briefings for all cleared employees at least annually and to provide derivative classification training for employees authorized to apply derivative classifications before exercising this authority and then at least once every 2 years thereafter. This direct final rule also gave licensees flexibility in determining the means and methods for providing this training. In the direct final rule, the NRC stated that if any significant adverse comments were received on the companion proposed rule by September 6, 2013 (78 FR 48076; August 7, 2013), a notice of timely withdrawal of the direct final rule would be published in the **Federal Register**. A significant adverse comment is one where a commenter explains why the rule would be inappropriate, including challenges to its underlying premise or approach, or would be ineffective, or unacceptable without a change. The NRC did not receive any comments that warranted withdrawal of the direct final rule. Therefore, this direct final rule was effective as scheduled.

Dated at Rockville, Maryland, this 7th day of November 2013.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Chief, Rules, Announcements, and Directives Branch, Office of Administration.

[FR Doc. 2013–27140 Filed 11–18–13; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 117 and 121

[Docket No. FAA–2009–1093; Amdt. Nos. 117–1, 119–16, 121–357]

RIN 2120–AJ58

Flightcrew Member Duty and Rest Requirements; Technical Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; technical correction.

SUMMARY: The FAA is correcting the final flightcrew member duty and rest rule published on January 4, 2012. In that rule, the FAA amended its existing flight, duty and rest regulations applicable to certificate holders and their flightcrew members operating certain domestic, flag, and supplemental operations. This document corrects several issues requiring a technical correction in the codified text of the final flightcrew member duty and rest rule.

DATES: Effective January 4, 2014.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Dale E. Roberts, AFS–200, Flight Standards Service, Air Transportation Division Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–5749; email *dale.e.roberts@faa.gov.*

For legal questions concerning this action, contact Alex Zektser or Bonnie Dragotto, AGC–220, Office of Chief Counsel, Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3073; email: *alex.zektser@faa.gov* or *bonnie.dragotto@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On January 4, 2012, the FAA published a final rule entitled ''Flightcrew Member Duty and Rest Requirements'' (77 FR 330). In that rule, the FAA created a new part, part 117, which replaced the then-existing flight, duty, and rest regulations for part 121 passenger operations. As part of this rulemaking, the FAA also applied the new part 117 to certain part 91 operations, and it permitted all-cargo operations operating under part 121 to voluntarily opt into the part 117 flight, duty, and rest regulations.

After the final rule was published, the FAA discovered several issues requiring a technical correction in the regulatory text of the rule. These issues, and the corresponding technical corrections, are as follows.

Technical Corrections

1. Certain Domestic All-Cargo Operations (§ 121.470(b))

Under the existing rules, 14 CFR 121.470(b) states that ''[c]ertificate holders conducting scheduled operations entirely within the States of Alaska or Hawaii with airplanes having a passenger seat configuration of more than 30 seats, excluding each crewmember seat, or a payload capacity of more than 7,500 pounds'' may elect to comply with the flag flight, duty, and rest rules of part 121.

The final rule that created 14 CFR part 117 provides that all-cargo operations that do not choose to operate under part 117 will be able to operate under the same flight, duty, and rest rules that they operated under prior to the creation of part 117.[1] However, the final rule inadvertently changed the regulatory text of § 121.470(b) to apply to airplanes with a passenger seat configuration of ''30 seats *or fewer . . . and* a payload capacity of 7,500 pounds or less.'' [2] Because this was not the intent of the final rule, § 121.470(b) has been corrected so that all-cargo operations that previously operated pursuant to § 121.470(b) can continue to do so after the final rule becomes effective.[3]

2. Conflict Between the Definitions in § 117.3 and Other Definitions

The regulatory text in § 117.3 has been corrected to clarify that if there is a conflict in definitions, the definitions in § 117.3 control only for purposes of the flight and duty limitations and rest requirements of part 117.

3. Reporting Requirements of § 117.11(c)

Section 117.11(b) permits a flightcrew member to exceed the flight-time limits of § 117.11(a) and § 117.23(b) in certain circumstances. To ensure that the FAA is notified in all instances in which the § 117.11(b) extension is utilized, § 117.11(c) has been corrected to clarify that reporting is required if the extension in § 117.11(b) is used to exceed either the limits of § 117.11 or § 117.23(b).

4. Reporting Requirements of § 117.19(b)(4)

Similar to § 117.11(b), § 117.19(b) permits a flightcrew member to exceed the flight-duty-period limits specified in Tables B and C and in § 117.23(c). To ensure that the FAA is notified in all instances in which the § 117.19(b) extension is utilized, § 117.19(b)(4) has been corrected to clarify that reporting is required if the extension in § 117.19(b) is used to exceed either the limits of Tables B/C or § 117.23. We note that while reporting is not required if the limits of Table B or C are exceeded by 30 minutes or less, the corrected § 117.19(b) requires certificate holder reporting if the limits of § 117.23 are exceeded by any amount of time.

5. Cumulative Limitations in § 117.23(b)

The cumulative flight-time limitations in § 117.23(c) have been corrected to clarify that a flightcrew member cannot accept an assignment that would cause that crewmember's total flight duty period to exceed either 60 hours in any

[1] *See Flightcrew Member Duty and Rest Requirements Final Rule,* 77 FR 330, 336–337 (Jan. 4, 2012).

[2] *Id.* at 403 (emphasis added).

[3] The FAA acknowledges that § 121.470(b) governs scheduled operations and § 110.2 defines a scheduled operation as a ''passenger-carrying operation.'' Consequently, an all-cargo operation may not be able to operate under § 121.470(b) as currently written. The FAA is examining this issue and may address it in a future regulatory action.

168 consecutive hours or 190 hours in any 672 consecutive hours.

6. Reporting Requirements of § 117.29(e)

Similar to § 117.11(b) and § 117.19(b), § 117.29 permits a flightcrew member to exceed the cumulative limits specified in Tables A, B, and C, and in § 117.23. To ensure that the FAA is notified in all instances in which the § 117.29(b) extension is utilized, § 117.29(e) has been corrected to clarify that reporting is required if the extension in § 117.29(b) is used to exceed either the limits of Tables A/B/C or § 117.23.

Accordingly, in the final rule, FR Doc. 2011–33078, published on January 4, 2012 (77 FR 330), make the following corrections:

§ 117.3 [Corrected]

■ 1. On page 398, in the second column, in § 117.3, the introductory text is corrected to read as follows:

§ 117.3 Definitions.

In addition to the definitions in §§ 1.1 and 110.2 of this chapter, the following definitions apply to this part. In the event there is a conflict in definitions, the definitions in this part control for purposes of the flight and duty limitations and rest requirements of this part.

* * * * *

§ 117.11 [Corrected]

■ 2. On pages 399 and 400, in the third column on page 399 and the first column of page 400, in § 117.11, correct paragraph (c) to read as follows:

§ 117.11 Flight time limitation.

* * * * *

(c) Each certificate holder must report to the Administrator within 10 days any flight time that exceeded the maximum flight time limits permitted by this section or § 117.23(b). The report must contain a description of the extended flight time limitation and the circumstances surrounding the need for the extension.

* * * * *

§ 117.19 [Corrected]

■ 3. On page 400, in the third column, in § 117.19, correct paragraph (b)(4) to read as follows:

§ 117.19 Flight duty period extensions.

* * * * *

(b) * * *

(4) Each certificate holder must report to the Administrator within 10 days any flight duty period that either exceeded the cumulative flight duty periods specified in § 117.23(c), or exceeded the maximum flight duty period limits permitted by Tables B or C of this part by more than 30 minutes. The report must contain a description of the circumstances surrounding the affected flight duty period.

§ 117.23 [Corrected]

■ 4. On page 401, in the first column, in § 117.23, paragraph (c)(1) is corrected to read as follows:

§ 117.23 Cumulative limitations

* * * * *

(c) * * *

(1) 60 flight duty period hours in any 168 consecutive hours or

* * * * *

§ 117.29 [Corrected]

■ 5. On page 401, in the third column, in § 117.29, correct paragraph (e) to read as follows:

§ 117.29 Emergency and government sponsored operations.

* * * * *

(e) Each certificate holder must report within 10 days:

(1) Any flight duty period that exceeded the maximum flight duty period permitted in Tables B or C of this part, as applicable, by more than 30 minutes;

(2) Any flight time that exceeded the maximum flight time limits permitted in Table A of this part and § 117.11, as applicable; and

(3) Any flight duty period or flight time that exceeded the cumulative limits specified in § 117.23.

* * * * *

§ 121.470 [Corrected]

■ 6. On page 403, in the first column, in § 121.470, correct paragraph (b) to read as follows:

§ 121.470 Applicability.

* * * * *

(b) Certificate holders conducting scheduled operations entirely within the States of Alaska or Hawaii with airplanes having a passenger seat configuration of more than 30 seats, excluding each crewmember seat, or a payload capacity of more than 7,500 pounds, may comply with the requirements of this subpart or subpart R of this part for those operations.

* * * * *

Issued in Washington, DC, on November 12, 2013.

Mark W. Bury,

Assistant Chief Counsel for International Law, Legislation, and Regulations Division, AGC–200.

[FR Doc. 2013–27539 Filed 11–18–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

15 CFR Part 400

[Docket No.: 131105932–3932–01]

RIN 0625–AA98

Import Administration; Change of Agency Name

AGENCY: Foreign-Trade Zones Board, International Trade Administration, Commerce.

ACTION: Final rule; nomenclature change.

SUMMARY: Effective October 1, 2013, the Department of Commerce (Department), through internal department organizational orders, changed the name of ''Import Administration'' to ''Enforcement and Compliance.'' Consistent with this action, this rule makes appropriate conforming changes in part 400 of title 15 of the Code of Federal Regulations.

The rule also sets forth a Savings Provision that preserves, under the new name, all actions taken under the name of Import Administration and provides that any references to Import Administration in any document or other communication shall be deemed to be references to Enforcement and Compliance.

DATES: This rule is effective on November 19, 2013.

FOR FURTHER INFORMATION CONTACT: Andrew McGilvray, Executive Secretary, Foreign-Trade Zones Board, Telephone: (202) 482–2862; Joanna Theiss, Attorney, Office of Chief Counsel for Trade Enforcement and Compliance, Telephone: (202) 482–5052.

SUPPLEMENTARY INFORMATION:

Background

This rule implements the decision by the Department of Commerce, through internal Department Organizational Order 10–3 (effective September 18, 2013) and Department Organizational Order 40–1, (effective September 19, 2013), to consolidate and reorganize certain Department organizational functions and revise the name of ''Import Administration'' to ''Enforcement and Compliance.'' The revision more accurately reflects the breadth of the agency's activities with respect to the enforcement of, and compliance with, U.S. trade laws. Consistent with the consolidation and name change, this rule makes a number of changes in part 400 of title 15 of the

Code of Federal Regulations. Specifically, this rule changes all references to the ''Assistant Secretary for Import Administration'' wherever they appear in part 400 of title 15 to ''Assistant Secretary for Enforcement and Compliance.''

Savings Provision

This rule shall constitute notice that all references to Import Administration in any documents, statements, or other communications, in any form or media, and whether made before, on, or after the effective date of this rule, shall be deemed to be references to Enforcement and Compliance. Any actions undertaken in the name of or on behalf of Import Administration, whether taken before, on, or after the effective date of this rule, shall be deemed to have been taken in the name of or on behalf of Enforcement and Compliance.

Rulemaking Requirements

1. This final rule has been determined to be exempt from review under Executive Order 12866.

2. This rule does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1995.

3. This rule does not contain policies with Federalism implications as this term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this rule involves a rule of agency organization, procedure, or practice. 5 U.S.C. 553(b)(B). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) are not applicable. Accordingly, this rule is issued in final form.

List of Subjects in 15 CFR Part 400

Administrative practice and procedure, Customs duties and inspection, Foreign trade zones, Harbors, Imports, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 15 CFR part 400 is amended as set forth below:

PART 400—REGULATIONS OF THE FOREIGN-TRADE ZONES BOARD

■ 1. The authority citation for part 400 continues to read as follows:

Authority: Foreign-Trade Zones Act of June 18, 1934, as amended (Pub. L. 73–397, 48 Stat. 998–1003 (19 U.S.C. 81a–81u)).

■ 2. In 15 CFR part 400, revise all references to the ''Assistant Secretary for Import Administration'' to read ''Assistant Secretary for Enforcement and Compliance''.

Dated: November 8, 2013.

Paul Piquado,

Assistant Secretary of Commerce, for Enforcement and Compliance.

[FR Doc. 2013–27722 Filed 11–18–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 320

[Docket ID: DoD–2013–OS–0215]

Privacy Act; Implementation

AGENCY: National Geospatial-Intelligence Agency, DoD.

ACTION: Direct final rule with request for comments.

SUMMARY: National Geospatial-Intelligence Agency (NGA) is updating the NGA Privacy Act Program by adding the (k)(2) exemption to accurately describe the basis for exempting the records in the system of records notice NGA–008, National Geospatial-Intelligence Agency Polygraph Records System. In this rulemaking, the NGA proposes to exempt portions of this system of records from one or more provisions of the Privacy Act because of criminal, civil and administrative enforcement requirements. This direct final rule makes non-substantive changes to the NGA Program rules. These changes will allow the Department to add exemption rules to the NGA Privacy Program rules that will exempt applicable Department records and/or material from certain portions of the Privacy Act. This will improve the efficiency and effectiveness of DoD's program by ensuring the integrity of the security and counterintelligence records by the NGA and the Department of Defense.

This rule is being published as a direct final rule as the Department of Defense does not expect to receive any adverse comments, and so a proposed rule is unnecessary.

DATES: The rule will be effective on January 28, 2014 unless adverse comment is received by January 21, 2014. If adverse comment is received, the Department of Defense will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.*

Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive; East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: National Geospatial-Intelligence Agency (NGA), ATTN: Security Specialist, Mission Support, MSRS P–12, 7500 GEOINT Drive, Springfield, VA 22150.

SUPPLEMENTARY INFORMATION:

Direct Final Rule and Significant Adverse Comments

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves non-substantive changes dealing with DoD's management of its Privacy Programs. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

It has been determined that this rule is not a significant rule. This rule does not (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive orders.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)

This rule will not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense. A Regulatory Flexibility Analysis is not required.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

This rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

These amendments do not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, ''Federalism''

These amendments do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no Federalism assessment is required.

List of Subjects in 32 CFR Part 320

Privacy.

Accordingly, 32 CFR part 320 is amended as follows:

PART 320—NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY (NGA) PRIVACY

■ 1. The authority citation for 32 CFR part 320 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1986 (5 U.S.C. 552a).

■ 2. Section 320.12 is amended by adding paragraph (e) to read as follows:

§ 320.12 Exemptions.

* * * * *

(e) *System identifier and name:* NGA–008, National Geospatial-Intelligence Agency Polygraph Records System.

(1) Exemptions: Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (e)(1): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(2) Authority: 5 U.S.C. 552a (k)(2).

(3) Reasons: Pursuant to 5 U.S.C. 552a (k)(2), the Director of NGA has exempted this system from the following provisions of the Privacy Act, subject to the limitation set forth in 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(i) From subsection (c)(3) and (c)(4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of NGA as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(ii) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of NGA or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(iii) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(iv) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(v) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(vi) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore NGA is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view

records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(vii) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude NGA personnel from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(viii) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with NGA's ability to cooperate with law enforcement who would obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(ix) From subsection (g)(1) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: November 6, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–27462 Filed 11–18–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 320

[Docket ID: DoD–2013–OS–0214]

Privacy Act; Implementation

AGENCY: National Geospatial-Intelligence Agency, DoD.

ACTION: Direct final rule with request for comments.

SUMMARY: National Geospatial-Intelligence Agency (NGA) is updating the NGA Privacy Act Program by adding the (k)(2) exemption to accurately describe the basis for exempting the records in the system of records notice NGA–003, National Geospatial-Intelligence Agency Enterprise Workforce System. In this rulemaking, the NGA proposes to exempt portions of this system of records from one or more provisions of the Privacy Act because of criminal, civil and administrative enforcement requirements. This direct final rule makes non-substantive changes to the NGA Program rules. These changes will allow the Department to add exemption rules to the NGA Privacy Program rules that will exempt applicable Department records and/or material from certain portions of the Privacy Act. This will improve the efficiency and effectiveness of DoD's program by ensuring the integrity of the security and counterintelligence records by the NGA and the Department of Defense.

This rule is being published as a direct final rule as the Department of Defense does not expect to receive any adverse comments, and so a proposed rule is unnecessary.

DATES: The rule will be effective on January 28, 2014 unless adverse comment is received by January 21, 2014. If adverse comment is received, the Department of Defense will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.*

Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive; East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: National Geospatial-Intelligence Agency (NGA), Human Development Directorate, 7500 GEOINT Drive, Springfield, VA 22150.

SUPPLEMENTARY INFORMATION:

Direct Final Rule and Significant Adverse Comments

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves non-substantive changes dealing with DoD's management of its Privacy Programs. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

It has been determined that this rule is not a significant rule. This rule does not (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive orders.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)

This rule will not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense. A Regulatory Flexibility Analysis is not required.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

This rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

These amendments do not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, ''Federalism''

These amendments do not have substantial direct effects on the States,

on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no Federalism assessment is required.

List of Subjects in 32 CFR Part 320

Privacy.

Accordingly, 32 CFR part 320 is amended as follows:

PART 320—NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY (NGA) PRIVACY

■ 1. The authority citation for part 320 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1986 (5 U.S.C. 552a).

■ 2. Section 320.12 is amended by adding paragraph (d) to read as follows:

§ 320.12 Exemptions.

* * * * *

(d) *System identifier and name:* NGA–003, National Geospatial-Intelligence Agency Enterprise Workforce System.

(1) Exemptions: Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source.

Note to paragraph (d)(1): When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(2) Authority: 5 U.S.C. 552a (k)(2).

(3) Reasons: Pursuant to 5 U.S.C. 552a (k)(2), the Director of NGA has exempted this system from the following provisions of the Privacy Act, subject to the limitation set forth in 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(i) From subsection (c)(3) and (c)(4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of NGA as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(ii) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of NGA or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(iii) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(iv) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(v) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(vi) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore NGA is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(vii) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude NGA personnel from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(viii) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with NGA's ability to cooperate with law enforcement who would obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(ix) From subsection (g)(1) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: November 6, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–27464 Filed 11–18–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 141

[Docket No. USCG–2013–0916]

RIN 1625–AC09

TWIC Not Evidence of Resident Alien Status

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard issues this final rule to remove from its regulations

on Outer Continental Shelf (OCS) activities a reference to the Transportation Worker Identification Credential (TWIC) and a related TWIC definition and recordkeeping reference because they are inconsistent with a requirement in the Outer Continental Shelf Lands Act. These regulations deal with the employment of personnel on the OCS to U.S. citizens or resident aliens. The TWIC reference incorrectly provides that a TWIC alone may be accepted by an employer as sufficient evidence of the TWIC holder's status as a U.S. resident alien, as that term is defined. This rule clarifies the regulations.

DATES: This final rule is effective November 19, 2013.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2013–0916 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov,* inserting USCG–2013–0916 in the ''Search'' box, and then clicking ''Search.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, email or call Mr. Quentin Kent, Office of Commercial Vessel Compliance, Foreign and Offshore Vessel Division (CG–CVC–2), Coast Guard; email *Quentin.C.Kent@uscg.mil,* telephone 202–372–2292. If you have questions on viewing the docket, call Ms. Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations

APA Administrative Procedure Act
FR Federal Register
I–9 Form I–9, Employment Eligibility Verification
INA Immigration and Nationality Act of 1952
NPRM Notice of proposed rulemaking
OCS Outer Continental Shelf
OCSLA Outer Continental Shelf Lands Act
TWIC Transportation Worker Identification Credential
U.S.C. United States Code

II. Basis and Purpose

The Coast Guard is amending its regulations in 33 CFR part 141, which govern the restrictions on the employment of personnel on units engaged in Outer Continental Shelf (OCS) activities, by removing an incorrect reference to the Transportation Worker Identification Credential (TWIC). The reference in 33 CFR 141.30(d) incorrectly provides that, for purposes of 33 CFR part 141, a TWIC alone may be accepted by an employer as sufficient evidence of the TWIC holder's status a U.S. resident alien,[1] as that term is defined in 33 CFR 141.10.

The regulations in 33 CFR part 141 are authorized by the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1301, et. al.), which mandates that the Secretary of the Department in which the Coast Guard operates shall issue regulations which, in part, require the employment of U.S. citizens or resident aliens on any vessel, rig, platform, or other vehicle or structure engaged in OCS activities, unless certain exceptions apply. 43 U.S.C. 1356.

Subsequent to the implementation of the regulations in 33 CFR part 141, the Coast Guard published a final rule entitled, ''Consolidation of Merchant Mariner Qualification Credentials'' on March 16, 2009, that went into effect on April 15, 2009. 74 FR 11196. In that rulemaking several provisions of 33 CFR part 141 were amended. In particular, the Coast Guard added paragraph (d) to 33 CFR 141.30, authorizing an employer to accept a TWIC alone as sufficient evidence of the TWIC holder's status as a U.S. resident alien. However, the preamble to this rulemaking did not provide a reason for adding paragraph (d) to 33 CFR 141.30. Paragraph (d) is incorrect because a TWIC may be issued to both U.S. resident aliens and non-resident aliens [2] and thus, it cannot serve as sufficient evidence that the person is a U.S. resident alien, as required by law. Therefore, for purposes of 33 CFR part 141, a TWIC alone cannot be accepted by an employer as sufficient evidence of the holder's status as a U.S. resident alien.

Since OCSLA mandates that employers must employ only U.S. citizens or resident aliens on units engaged in OCS activities, any employer who hires a non-resident alien who has presented only a TWIC as proof of status as a U.S. resident alien, would not be in compliance with the OCSLA requirement. Additionally, authorizing a TWIC to be used in this manner is contrary to, and inconsistent with the definition for a U.S. ''resident alien'' found in § 141.10 where the term is defined as ''an alien lawfully admitted to the United States for permanent residence in accordance with section 101(a)(20) of the Immigration and Nationality Act (INA) of 1952, as amended, 8 U.S.C. 1101(a)(20).''

To correct this inconsistency, the Coast Guard is removing 33 CFR 141.30(d) from its regulations and clarifies that only the provisions in 33 CFR 141.30(a) through (c) are acceptable for showing evidence of a person's status as a U.S. resident alien.

The Coast Guard is also removing a related TWIC definition in § 141.10 and a related TWIC recordkeeping reference in § 141.35(d).

III. Regulatory History

The Administrative Procedure Act (APA) requires the Coast Guard to provide public notice and seek public comment on substantive regulations. 5 U.S.C. 553. The APA, however, excludes certain types of regulations and permits exceptions for other types of regulations from this public notice and comment requirement. Under the APA ''good cause'' exception, an agency may dispense with the requirement for notice and comment if the agency finds that following APA requirements would be ''impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B). The Coast Guard finds that notice and comment for this rulemaking is unnecessary because we are merely removing a provision that we mistakenly inserted into 33 CFR part 141 in a 2009 rulemaking and that is inconsistent with the governing statute (see discussion in section II. Basis and Purpose). Public notice of this change is unnecessary because such comments cannot affect, influence, or inform any Coast Guard action in implementing the removal of this provision because the Coast Guard cannot maintain a regulation that is inconsistent with its statutory authority.

[1] U.S. resident alien is defined in 33 CFR 141.10 as an alien lawfully admitted for permanent residence, as defined in 8 U.S.C. 1101(a)(20). See 49 CFR 1570.3. The term in synonymous with ''legal permanent resident'' as it appears in TSA regulations.

[2] See Transportation Security Administration regulations, 49 CFR 1572.105.

Moreover, the Coast Guard finds that good cause exists to implement this rule immediately upon publication in the **Federal Register**. See 5 U.S.C. 553(d)(3). The Coast Guard finds it necessary to implement this rule immediately because the Coast Guard cannot keep a regulation in place even if the public showed support for it since it is inconsistent with its statutory authority. We also find it in the public interest to implement this rule immediately to ensure that employers know as soon as possible that they must verify a potential employees' immigration status by means other than a TWIC.

IV. Discussion of the Final Rule

Section 141.10 contains the definitions that apply to part 141. A TWIC is defined as ''an identification credential issued by the Transportation Security Administration according to 49 CFR part 1572.'' We are removing this definition for the reasons explained in Part III.

Section 141.30 contains the regulation which lists the documents an employer can accept as evidence of a person's status as a U.S. resident alien. We are removing Section 141.30(d) for the reasons explained in Part III.

Section 141.35 states which records must be kept by employers as proof of eligibility for employment on the OCS. Section 141.35(a)(1) requires that an employer maintain a copy of a TWIC if that is the method of identification used by the employee to assert eligibility to work on the OCS. Since a TWIC is not a valid form of identification for purposes of part 141 as explained in Part III, we are removing ''Transportation Worker Identification Credential'' from § 141.35(a)(1). All other recordkeeping requirements will remain unchanged.

In addition, we will make a non-substantive change to § 141.30(c). The word ''the'' preceding the word ''Naturalization'' is removed as it is grammatically incorrect since only the word ''a'' should precede the word ''Naturalization.''

V. Regulatory Analyses

We developed this final rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed it under that Order. Nonetheless, we developed an analysis of the costs and benefits of this final rule to ascertain its probable impacts on industry.

Currently, part 141 permits an individual to present a valid TWIC as evidence of U.S. resident alien status for the purposes of employment on units engaged in OCS activities. The TWIC is unsuitable as evidence of U.S. resident alien status because the TWIC may be obtained by non-resident aliens.

Employers, therefore, cannot accept the TWIC as sufficient evidence that the potential employee is a U.S. resident alien. This final rule will remove the TWIC as proof of U.S. resident alien status for employment on units engaged in OCS activities, creating consistency with other requirements in part 141 that state that each employer engaged in OCS activities must employ only U.S. citizens or resident aliens, with limited exceptions.

The Coast Guard does not expect this final rule to burden industry with new costs. In addition to having no evidence that any employers have attempted to accept the TWIC alone to determine the immigration status of employees since the TWIC was added to the list in 2009, employers in the United States are required by the INA to use the Form I–9,[3] Employment Eligibility Verification (I–9) process. The I–9 process includes an attestation from the new hire on whether he or she is a U.S. citizen or national, lawful permanent resident, or alien authorized to work in the United States. Employers must verify the identity and employment authorization of every individual hired for employment in the United States. (8 CFR 274a.2) The TWIC card alone would be insufficient evidence to prove one's identity and employment authorization under the I–9 process.

Because part 141 does not exempt employers from completing the Form I–9, the population directly affected by the final rule (i.e., employers and potential employees) will not incur any additional costs as a result of the final rule.

The benefits of this final rule include harmonization with the INA and clarification of the requirements to demonstrate U.S. resident alien status for the purpose of employment on units engaged in activities on the OCS. The inclusion of the TWIC to the list of documents acceptable to prove U.S. resident alien status in § 141.30 contradicts the intent of OCSLA. Removal of the reference to TWIC from the list will ensure employers and employees understand which documents can be accepted as proof of U.S. resident alien status.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The revisions in this rule do not require publication of an NPRM and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for its potential economic impact on small entities. There is no cost to businesses, not-for-profit organizations, or government jurisdictions as a result of this rule, since other federal requirements would preclude the use of the TWIC as sole evidence of U.S. resident alien status. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

[3] Form I–9, Employment Eligibility Verification, OMB No. 1615–0047, http://www.uscis.gov/files/form/i-9.pdf

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Quentin Kent, at *Quentin.C.Kent@uscg.mil*. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. In 43 U.S.C. 1356, Congress specifically granted to the Secretary of the Department in which the Coast Guard is operating, the authority to issue regulations, which, in part, require the employment of U.S. citizens or resident aliens on any vessel, rig, platform, or other vehicle or structure engaged in OCS activities, unless certain exceptions apply. As this rule updates existing OCS personnel regulations, it falls within the scope of authority Congress granted exclusively to the Secretary of Homeland Security and States may not regulate within this category.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph 34(a), (c) and (d) of the Instruction. This rule involves regulations that are editorial or procedural, regulations concerning the licensing of maritime personnel and regulations concerning manning and documentation of vessels. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 141

Citizenship and naturalization, Continental shelf, Employment, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 141 as follows:

PART 141—PERSONNEL

■ 1. The authority citation for part 141 continues to read as follows:

Authority: 43 U.S.C. 1356; 46 U.S.C. 70105; 49 CFR 1.46(z).

Subpart A—Restrictions on Employment

§ 141.10 [Amended]

■ 2. In § 141.10, remove the definition for ''Transportation Worker Identification Credential or TWIC''.

§ 141.30 [Amended]

■ 3. In § 141.30:
■ a. In paragraph (c), after the words ''issued by'', remove the word ''the''; and
■ b. Remove paragraph (d).

§ 141.35 [Amended]

■ 4. In § 141.35(a)(1), after the words ''mariner's document'', remove the punctuation and words '', Transportation Worker Identification Credential,''.

Dated: November 8, 2013.

J.C. Burton,

Captain, U.S. Coast Guard, Director of Inspections & Compliance.

[FR Doc. 2013–27569 Filed 11–18–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2012–0846; FRL–9817–4]

Approval and Promulgation of Air Quality Implementation Plans; Montana; Revisions to the Administrative Rules of Montana—Air Quality, Subchapter 7, Subchapter 16 and Subchapter 17

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve new rules as submitted by the State of Montana on September 23, 2011. Montana adopted these rules on December 2, 2005 and March 23, 2006. These new rules meet the requirements of the Clean Air Act (CAA) and EPA's minor new source review (NSR) regulations. In this action, EPA is approving these rules as they are consistent with the CAA. This action is being taken under section 110 of the CAA.

DATES: This final rule is effective December 19, 2013.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2012–0846. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kevin Leone, Air Program, Mailcode 8P–AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6227, or *leone.kevin@epa.gov*.

SUPPLEMENTARY INFORMATION:

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Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The words *Minor NSR* mean NSR established under section 110 of the Act and 40 CFR 51.160.

(iv) The initials *NSR* mean new source review, a phrase intended to encompass the stationary source regulatory programs that regulate the construction and modification of stationary sources as provided under CAA section 110(a)(2)(C), CAA Title I, parts C and D, and 40 CFR 51.160 through 51.166.

(v) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The words *State* or *Montana* mean the State of Montana, unless the context indicates otherwise.

I. What action is EPA taking?

A. Summary of Final Action

EPA is taking final action to approve the Montana State Implementation Plan (SIP) and rules submitted to EPA on September 23, 2011. This submission contained revisions to ARM 17.8.744, and new rules I–VI, codified as ARM 17.8.1601, 17.8.1602, 17.8.1603, 17.8.1604, 17.8.1605, and 17.8.1606, pertaining to the regulation of oil and gas well facilities. The Montana Board of Environmental Review (Board) adopted these revisions to existing SIP revisions and new rules on December 2, 2005 and they became effective on January 1, 2006. This submission also contains new rules I–IX, codified as ARM 17.8.1701, 17.8.1702, 17.8.1703, 17.8.1704, 17.8.1705, 17.8.1710, 17.8.1711, 17.8.1712 and 17.8.1713 pertaining to the regulation of oil and gas well facilities. The Board adopted these revisions to existing SIP revisions and new rules on March 23, 2006 and they became effective on April 7, 2006. The new rules and revisions meet the requirements of the Act and EPA's minor NSR regulations.

EPA proposed action for the above SIP revision submittals on November 13, 2012 (77 FR 67596). We accepted comments from the public on this proposal from November 14, 2012, until December 13, 2012. A summary of the comments received and our evaluation thereof is discussed in section III below. In the proposed rule, we described our basis for the actions identified above. The reader should refer to the proposed rule, and sections IV and V of this preamble, for additional information regarding this final action.

EPA reviews a SIP revision submission for its compliance with the Act and EPA regulations. CAA 110(k)(3). We evaluated the submitted new and revised rules based upon the regulations and associated record that have been submitted and are currently before EPA. In order for EPA to ensure that Montana has a program that meets the requirements of the CAA, the State must demonstrate the program is as stringent as the Act and the implementing regulations discussed in this notice. For example, EPA must have sufficient information to make a finding that the new program will ensure protection of the NAAQS, and noninterference with the Montana SIP control strategies, as required by section 110(l) of the Act. The provisions in these submittals were not submitted to meet a mandatory requirement of the Act.

II. What is the background?

A. Brief Discussion of Statutory and Regulatory Requirements

The CAA (section 110(a)(2)(C)) and 40 CFR 51.160 require states to have legally

enforceable procedures to prevent construction or modification of a source if it would violate any SIP control strategies or interfere with attainment or maintenance of the National Ambient Air Quality Standards (NAAQS). Such minor NSR programs are for pollutants from stationary sources that do not require Prevention of Significant Deterioration (PSD) or nonattainment NSR permits. States may customize the requirements of the minor NSR program as long as their program meets minimum requirements.

Section 110(l) of the CAA states: ''[e]ach revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision to a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this chapter.''

The States' obligation to comply with each of the NAAQS is considered as ''any applicable requirement(s) concerning attainment.'' A demonstration is necessary to show that this SIP revision will not interfere with attainment or maintenance of the NAAQS, including those for ozone, particulate matter, carbon monoxide (CO), sulfur dioxide (SO_2), lead, nitrogen oxides (NO_X) or any other requirement of the Act. Montana's demonstration of noninterference (see docket), as submitted to EPA on September 23, 2011, provides sufficient basis that the inclusion of the new rules and revisions, as described in section I of this preamble, will not interfere with attainment, reasonable further progress (RFP), or any other applicable requirement of the CAA. Further details are provided in sections IV and V of this action.

B. Summary of the Submittal Addressed in This Final Action

The final action to approve the new and revised rules as described in section I of this preamble, hereafter referred to as ''the program'', would establish a registration system for certain facilities that presently require a minor NSR air quality permit under the SIP regulations. The new and revised rules would establish a general registration system for oil and gas well facilities and would allow the owner or operator of an oil or gas well facility to register with the Montana Department of Environmental Quality (MDEQ) in lieu of submitting a permit application and obtaining a permit to construct or modify the source. Currently, with specific exemptions, the administrative rules adopted under the Clean Air Act of Montana and approved by the EPA into the SIP, require the owner or operator of sources of air pollution to obtain a permit prior to construction or modification.

Montana originally submitted these rules on October 16, 2006, and November 1, 2006 to EPA for inclusion into the SIP. EPA proposed action on these submittals on January 6, 2011 (76 FR 758). EPA had several concerns with the Program, as was explained in 76 FR 758. Montana withdrew the October 16, 2006, and November 1, 2006, submittals in March of 2011 and resubmitted the Program on September 23, 2011. The September 23, 2011, submittal contained a 110(l) demonstration, as well as other supplemental data, which addressed EPA's concerns that were raised in 76 FR 758.

III. Response to Comments

In response to our November 13, 2012 proposal, we received comments from the following: Montana Petroleum Association, Inc. (MPA); True Oil LLC; and the Montana Department of Environmental Quality (MDEQ).

A. MPA

Comment: Commenter states MPA has reviewed the proposed approval found at 77 FR 67596 and agrees with EPA's proposal to approve the program as submitted on September 23, 2011. MPA encourages EPA to promptly incorporate the new and revised rules, as outlined in 77 FR 67596, into the Montana SIP. MPA notes that the new and revised rules provide a workable alternative to the Montana air quality permitting program and that the program meets the requirements of CAA section 110(l) of the Federal Clean Air Act and other applicable requirements. MPA outlined specific federal requirements and demonstrations from 77 FR 67596 in which they agree with EPA's proposed conclusions. For those reasons, MPA concurs with EPA's proposed action.

MPA further notes they had previously submitted comments to EPA in regard to the incorporation of Subchapters 16 and 17 into the Montana SIP. Those comments and analysis are contained in the Docket ID: EPA–R08–OAR–2007–0662, which were in response to our January 6, 2011, proposed action. MPA notes that their analysis is similar to that submitted by MDEQ; MPA's analysis also reviewed ambient air quality data around the state and compared this data to data collected near oil and gas sites. MPA wishes to incorporate by reference their previous comments and analysis as contained in EPA–R08–OAR–2007–0662 into their comments for this rulemaking.

Response: We acknowledge receipt of these comments and the support for our proposal for approval. We also acknowledge receipt of the comments submitted by MPA which are contained in *EPA–R08–OAR–2007–0662* and hereby incorporate those comments by reference into MPA's comments for this rulemaking.

B. True Oil, LLC

Comment: Commenter states that they support EPA's proposed rule found in 77 FR 67596 to approve the inclusion of Montana's Subchapters 16 and 17 into the Montana SIP. The commenter states they fully concur with EPA's review of those rules and that they meet all obligations under the Federal Clean Air Act for incorporation into a state SIP.

Response: We acknowledge receipt of these comments and the support for our proposal for approval.

C. MDEQ

Comment: Commenter states that they support EPA's proposed rule found in 77 FR 67596 to approve the inclusion of Montana's Subchapters 16 and 17 into the Montana SIP. The commenter states that Montana's Oil and Gas Registration program represents advanced regulatory ideas for stewardship and sustainability and that the program is an innovative, efficient method for ensuring sources install and operate emission control equipment that protects and improves air quality. The commenter also states they appreciate the time EPA invested in reviewing and studying the issues around Montana's Oil and Gas Registration program.

Response: We acknowledge receipt of these comments and the support for our proposal for approval. EPA recognizes that approval of an oil and gas registration program is a priority for the State; EPA also indicates its support for registration/permit-by-rule programs as they provide efficiencies and environmental benefits. EPA commends MDEQ for periodically revising their SIP in order to adapt to environmental, economic and social changes, and recognizing the need for a more collaborative, flexible, and performance based regulatory strategy to meet the regulatory challenge posed by Montana's oil and gas industry. EPA also commends Montana's work in developing an approvable program that is consistent with CAA and regulatory requirements.

IV. What are the grounds for this approval action?

EPA evaluated the new rules and revisions, as described in section I of this preamble, using the following:

(1) The statutory requirements under CAA section 110(a)(2)(c), which requires states to include a minor NSR program in their SIP to regulate modifications and new construction of stationary sources within the area as necessary to assure the NAAQS are achieved;

(2) The regulatory requirements under 40 CFR 51.160, including section 51.160(a), which require that the SIP include legally enforceable procedures that enable a state or local agency to determine whether construction or modification of a facility, building, structure or installation, or combination of these will result in a violation of applicable portions of the control strategy; or interference with attainment or maintenance of a national standard in the state in which the proposed source (or modification) is located or in a neighboring state; section 51.160(b), which requires states to have legally enforceable procedures to prevent construction or modification of a source if it would violate any SIP control strategies or interfere with attainment or maintenance of the NAAQS; and

(3) The statutory requirements under CAA section 110(l), which provides that EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and RFP, or any other applicable requirement of the CAA. Therefore, EPA will approve a SIP revision only after a state has demonstrated that such a revision will not interfere (''noninterference'') with attainment of the NAAQS, RFP or any other applicable requirement of the CAA. In this instance, EPA asked the State to submit an analysis showing that the new rules and revisions, as described in section I of this preamble, would not violate section 110(l) of the CAA (see docket); this is also referred to as a ''demonstration of noninterference'' with attainment and maintenance under CAA section 110(l). The scope and rigor of the demonstration of noninterference conducted in support of this notice is appropriate given the air quality status of the State, and the potential impact of the revision on air quality and the pollutants affected.

As EPA described in this preamble and in the proposed notice (77 FR 67596), the new rules and revisions we are taking final action to approve meet the requirements of CAA section 110(a)(2)(c) and 40 CFR 51.160. In addition, the State's September 23, 2011, demonstration of noninterference indicates that incorporating the new rules and revisions, as described in section I of this preamble, will not interfere with attainment of the NAAQS, RFP, or any other applicable requirement of the CAA.

V. Final Action

EPA is taking final action to approve the new and revised rules as submitted by Montana on September 23, 2011, based upon three criteria. First, the State provided sufficient information to determine that the requested revision to add the new oil and gas registration program to the Montana Minor NSR SIP will not interfere with any applicable requirement concerning attainment and RFP as required by CAA section 110(l), or any other requirement of the Act; Second, the new rules comply with CAA section 110(a)(2)(C), which requires states to include a minor NSR program in their SIP to regulate modifications and new construction of stationary sources within the area as necessary to assure the NAAQS are achieved; Third, the new rules comply with 40 CFR 51.160.

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this final action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 21, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to

enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq*

Dated: April 26, 2013.

Howard M. Cantor,

Acting Regional Administrator, Region 8.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart BB—Montana

■ 2. Section 52.1370 is amended by adding paragraph (c)(73) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(73) On September 23, 2011, the State of Montana submitted new rules to the Administrative Rules of Montana (ARM). The submittal included new rules to ARM Chapter 17. The incorporation by reference in paragraphs (i)(A) and (i)(B) reflect the new rules.

(i) Incorporation by reference.

(A) Administrative Rules of Montana: 17.8.1601, *Definitions;* 17.8.1602, *Applicability and Coordination with Montana Air Quality Permit Rules;* 17.8.1603, *Emission Control Requirements;* 17.8.1604, *Inspection and Repair Requirements;* 17.8.1605, *Recordkeeping Requirements;* 17.8.1606, *Delayed Effective Date;* effective January 1, 2006.

(B) Administrative Rules of Montana: 17.8.1701, *Definitions;* 17.8.1702, *Applicability;* 17.8.1703, *Registration Process and Information;* 17.8.1704, *Registration Fee;* 17.8.1705, *Operating Requirements: Facility-wide;* 17.8.1710, *Oil or Gas Well Facilities General Requirements;* 17.8.1711, *Oil or Gas Well Facilities Emission Control Requirements;* 17.8.1712, *Oil or Gas Well Facilities Inspection and Repair Requirements;* 17.8.1713, *Oil or Gas Well Facilities Recordkeeping and Reporting Requirements;* effective April 7, 2006.

[FR Doc. 2013–27555 Filed 11–18–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2011–0672; FRL–9902–03–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; Ohio SO_2 Air Quality Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On June 24, 2011, Ohio Environmental Protection Agency (Ohio EPA) submitted for Clean Air Act (CAA) State Implementation Plan (SIP) approval, revisions to Ohio Administrative Code (OAC) rules: 3745–18–01, 3745–18–03 to 3745–18–52, 3745–18–54 to 3745–18–77, 3745–18–79, 3745–18–81 to 3745–18–89, and 3745–18–91 to 3745–18–94. The rule revisions primarily update facility information and remove SO_2 requirements for shutdown facilities throughout the SIP. EPA believes that the revisions improve the clarity of the rule without affecting the stringency and therefore is approving all of the submitted revisions except for specific paragraphs in OAC 3745–18–04.

DATES: This rule is effective January 21, 2014, unless EPA receives adverse comments by December 19, 2013. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2011–0672, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: aburano.douglas@epa.gov.*
3. *Fax:* (312) 408–2279.
4. *Mail:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2011–0672. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Sarah Arra, Environmental Scientist, at (312)

886–9401 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–9401, *Arra.Sarah@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background

Ohio law requires a five year review of all regulations. Ohio conducted a review on OAC 3745–18 and made revisions throughout the rules. The rule revisions are primarily updating facility information and removing requirements that apply to shutdown facilities. Ohio EPA submitted the rule revisions to EPA on June 24, 2011. EPA's most recent approval for revisions to OAC 3745–18 was published in the **Federal Register** on March 21, 2008 at 73 FR 15083. For a full history of the federally approved revisions to OAC 3745–18, see the Background section of rulemaking published in the **Federal Register** on May 1, 2007 at 72 FR 23783.

II. Review of Ohio's Submittal

During Ohio's five year review, Ohio made revisions to rules: 3745–18–01, 3745–18–03 to 3745–18–52, 3745–18–54 to 3745–18–77, 3745–18–79, 3745–18–81 to 3745–18–89, and 3745–18–91 to 3745–18–94.

Numerous revisions to OAC 3745–18 were updates of existing facility information. Several facilities had changes in premise numbers. Several other facilities were updated with name changes. An emissions limit was updated for the Sunoco, Inc., Toledo Refinery. This limit is consistent with EPA's consent order 05CV2866. The updates to these facilities allow for consistent recordkeeping and easier compliance tracking.

Most of the substantial rule revisions were the removal of requirements for shutdown facilities from the SIP. Ohio's criteria for removing requirements for a facility from the SIP is that the facility has been permanently and enforceably shutdown for at least five years. EPA and Ohio EPA are confident that all the facilities for which requirements are being removed from the SIP are permanently and enforceably shut down. When confirming a shutdown facility, EPA relies on the State's database. EPA confirmed that all of the shutdown facilities are in Ohio EPA's database. Table 1 in EPA's September 2013 Technical Support Document (TSD), available in the docket for this rulemaking, shows the facilities that have been shut down with their shutdown dates. For the last third of Table 1, EPA was not able to confirm a shutdown date for the facilities. Ohio EPA confirmed that these facilities were shut down before the existence of the database and supplied information on the shutdown of these facilities in the last column of Table 1.

The last eight facilities in Table 1 of the TSD are still operating. However, Ohio EPA and EPA agree that it is appropriate to remove the SO_2 requirements from the SIP because all SO_2 applicable emissions units are shut down and would require a new permit for restart.

Table 2 in the TSD is a list of facilities that are still operating emission units applicable to the SIP, but have units that have shut down. Therefore, for clarity of the rule, it is appropriate to remove the SO_2 requirements for the shutdown units from the SIP.

For the few cases where the facility still operates, but the emissions units are shut down, the permits have been revoked and new permits would need to be issued if the units ever restarted. EPA is confident that all facilities where SO_2 requirements have been removed from the SIP are permanently and enforceablely shutdown. Therefore, removing SO_2 requirements for these facilities from OAC 3745–18 does not have any negative impact on the environment, but instead, improves the clarity of the rules.

EPA is not taking action on selected paragraphs in OAC 3745–18–04. Paragraph OAC 37–18–04(D)(9), contains a typographical error that changes the testing method required in the paragraph. EPA is not taking action on this paragraph, so the version that was state effective on March 21, 2000 will remain in effect for the Federally approved SIP. Ohio sent an email on September 20, 2013 acknowledging this error. EPA is also not taking action on paragraphs OAC 37–18–04(D)(2), (D)(3), (D)(5), (D)(6), (E)(2), (E)(3), and (E)(4). These paragraphs have not been previously approved by EPA and are outside the cleanup intent of these SIP revisions.

III. What action is EPA taking?

EPA is approving OAC 3745–18–01, 3745–18–03, 3745–18–05 to 3745–18–52, 3745–18–54 to 3745–18–77, 3745–18–79, 3745–18–81 to 3745–18–89, 3745–18–91 to 3745–18–94, and parts of 3745–18–04. The revisions mainly remove the SO_2 requirements for permanently shutdown facilities from the SIP. EPA believes the revisions improve the clarity of the rule without affecting the stringency of the SIP. EPA is not taking action on OAC 3745–18–04(D)(2)to(3), (D)(5)to(6), (D)(9), and (E)(2)to(4).

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective January 21, 2014 without further notice unless we receive relevant adverse written comments by December 19, 2013. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective January 21, 2014.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CCAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 21, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 26, 2013.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Section 52.1870 is amended by adding paragraph (c)(160) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(160) On June 24, 2011, Ohio submitted numerous revisions to their SO_2 rules in Ohio Administrative Code Chapter 3745–18. These revisions mainly update facility information and remove shutdown facilities from the rule.

(i) Incorporation by reference.

(A) Ohio Administrative Code Rules 3745–18–03 ''Attainment dates and compliance time schedules.'', 3745–18–04 ''Measurement methods and procedures.'' except (D)(2), (D)(3), (D)(5), (D)(6), (D)(9), (E)(2), (E)(3), and (E)(4), 3745–18–05 ''Ambient and meteorological monitoring requirements.'', 3745–18–06 ''General emission limit provisions.'', 3745–18–07 ''Adams County emission limits.'', 3745–18–08 ''Allen County emissions limits.'', 3745–18–09 ''Ashland County emission limits.'', 3745–18–10 ''Ashtabula County emissions limits.'', 3745–18–11 ''Athens County emission limits.'', 3745–18–12 ''Auglaize County emission limits.'', 3745–18–13 ''Belmont County emission limits.'', 3745–18–14 ''Brown County emission limits.'', 3745–18–15 ''Butler County emission limits.'', 3745–18–16 ''Carroll County emission limits.'', 3745–18–17 ''Champaign County emission limits.'', 3745–18–18 ''Clark County emission limits.'', 3745–18–19 ''Clermont County emission limits.'', 3745–18–20 ''Clinton County emission limits.'', 3745–18–21 ''Columbiana County emission limits.'', 3745–18–22 ''Coshocton County emission limits.'', 3745–18–23 ''Crawford County emission limits.'', 3745–18–24 ''Cuyahoga County emission limits.'', 3745–18–25 ''Darke County emission limits.'', 3745–18–26 ''Defiance County emission limits.'', 3745–18–27 ''Delaware County emission limits.'', 3745–18–28 ''Erie County emission limits.'', 3745–18–29 ''Fairfield County emission limits.'', 3745–18–30 ''Fayette County emission limits.'', 3745–18–31 ''Franklin County emission limits.'', 3745–18–32 ''Fulton County emission limits.'', 3745–18–33 ''Gallia County emission limits.'', 3745–18–34 ''Geauga County emission limits.'', 3745–18–35 ''Greene County emission limits.'', 3745–18–36 ''Guernsey County emission limits.'', 3745–18–37 ''Hamilton County emission limits.'', 3745–18–38 ''Hancock County emission limits.'', 3745–18–39 ''Hardin County emission limits.'', 3745–18–40 ''Harrison County emission limits.'', 3745–18–41 ''Henry County emission limits.'', 3745–18–42 ''Highland County emission limits.'', 3745–18–43 ''Hocking County emission limits.'', 3745–18–44 ''Holmes County emission limits.'', 3745–18–45 ''Huron County emission limits.'', 3745–18–46 ''Jackson County emission limits.'', 3745–18–47 ''Jefferson County emission limits.'', 3745–18–48 ''Knox County emission limits.'', 3745–18–49 ''Lake County emission limits.'', 3745–18–50 ''Lawrence County emission limits.'', 3745–18–51 ''Licking County emission limits.'', 3745–18–52 ''Logan County emission limits.'', 3745–18–55 ''Madison County emission limits.'', 3745–18–56 ''Mahoning County emission limits.'', 3745–18–57 ''Marion County emission limits.'', 3745–18–58 ''Medina County emission limits.'', 3745–18–59 ''Meigs County emission limits.'', 3745–18–60 ''Mercer County

emission limits.'', 3745–18–61 ''Miami County emission limits.'', 3745–18–62 ''Monroe County emission limits.'', 3745–18–63 ''Montgomery County emission limits.'', 3745–18–64 ''Morgan County emission limits.'', 3745–18–65 ''Morrow County emission limits.'', 3745–18–66 ''Muskingum County emission limits.'', 3745–18–67 ''Noble County emission limits.'', 3745–18–68 ''Ottawa County emission limits.'', 3745–18–69 ''Paulding County emission limits.'', 3745–18–70 ''Perry County emission limits.'', 3745–18–71 ''Pickaway County emission limits.'', 3745–18–72 ''Pike County emission limits.'', 3745–18–73 ''Portage County emission limits.'', 3745–18–74 ''Preble County emission limits.'', 3745–18–75 ''Putnam County emission limits.'', 3745–18–76 ''Richland County emission limits.'', 3745–18–77 ''Ross County emission limits.'', 3745–18–79 ''Scioto County emission limits.'', 3745–18–81 ''Shelby County emission limits.'', 3745–18–83 ''Summit County emission limits.'', 3745–18–84 ''Trumbull County emission limits.'', 3745–18–85 ''Tuscarawas County emission limits.'', 3745–18–86 ''Union County emission limits.'', 3745–18–87 ''Van Wert County emission limits.'', 3745–18–88 ''Vinton County emission limits.'', 3745–18–89 ''Warren County emission limits.'', 3745–18–91 ''Wayne County emission limits.'', 3745–18–92 ''Williams County emission limits.'', 3745–18–93 ''Wood County emission limits.'', 3745–18–94 ''Wyandot County emission limits.'', adopted on February 7, 2011, effective February 17, 2011.

(B) February 7, 2011, ''Director's Final Findings and Orders'', signed by Scott J. Nally, Director, Ohio Environmental Protection Agency, adopting the rules identified in paragraph (160)(i)(A) of this section.

(C) Ohio Administrative Code Rules 3745–18–01 ''Definitions and incorporation by reference.'', 3745–18–54 ''Lucas County emission limits.'', 3745–18–82 ''Stark County emission limits.'', adopted on March 24, 2011, effective April 3, 2011.

(D) March 24, 2011, ''Director's Final Findings and Orders'', signed by Scott J. Nally, Director, Ohio Environmental Protection Agency, adopting the rules identified in paragraph (160)(i)(C) of this section.

■ 3. Section 52.1881 is amended by revising paragraph (a)(4) to read as follows:

§ 52.1881 Control strategy: Sulfur oxides (sulfur dioxide).

(a) * * *

(4) Notwithstanding the portions of this section that EPA has either disapproved or taken no action on, EPA has approved a complete plan addressing all counties in the State of Ohio. In addition, specific approved rules are listed in § 52.1870.

* * * * *

[FR Doc. 2013–27561 Filed 11–18–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1910–0010; FRL 9902–79–Region 9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the El Toro Marine Corps Air Station Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region IX is publishing a direct final Notice of Deletion of portions of the El Toro Marine Corp Air Station Superfund Site (Site), located in Irvine, California, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final partial deletion is being published by EPA with the concurrence of the State of California through the Department of Toxic Substances Control (DTSC), because EPA has determined that all appropriate response actions at these identified parcels under CERCLA have been completed. However, this partial deletion does not preclude future actions under Superfund.

This partial deletion pertains to all Site media, including soil and groundwater, of parcels I–A, II–A, III–A, II–J, II–Q, II–S, II–T, III–C, I–C, II–U, I–B, I–E, I–G, I–H, I–I, I–J, I–L, I–M, I–P, II–G, II–I, II–P, III–D, I–K, I–N, I–O, I–S, II–E, II–L, II–M, II–R, I–Q, I–R, II–B, II–K, and II–O of the Site. The current remaining areas of the Site will remain on the NPL and are not being considered for deletion as part of this action.

DATES: This direct final partial deletion is effective January 21, 2014 unless EPA receives adverse comments by December 19, 2013. If adverse comments are received, EPA will publish a timely withdrawal of the direct final partial deletion in the **Federal Register** informing the public that the partial deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1910–0010, by one of the following methods:

- *http://www.regulations.gov*. Follow on-line instructions for submitting comments.
- *Email: Aycock.Mary@epa.gov*.
- *Fax:* (415) 947–3528.
- *Mail:* Mary Aycock, U.S. EPA Remedial Project Manager, U.S. Environmental Protection Agency, Region IX, Mail Code SFD–8–1, 75 Hawthorne Street, San Francisco, CA 94105.
- *Hand delivery:* Mary Aycock, U.S. EPA Remedial Project Manager, U.S. Environmental Protection Agency, Region IX, Mail Code SFD81, 75 Hawthorne Street, San Francisco, CA 94105. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1910–0010. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of

encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statue. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at:

Superfund Records Center, Mail Stop SFD–7C, 95 Hawthorne Street, Room 403, San Francisco, CA 94105. Phone: (415) 820–4700. Hours: Mon. thru Fri.—8 a.m. to 5 p.m.

Heritage Park Regional Library, Reference Section, 14361 Yale Street, Irvine, CA 92714. Phone: (949) 936–4040. Hours: Mon. thru Thu.—10 a.m. to 9 p.m.; Sat.—10 a.m. to 5 p.m.; Sun.—12 p.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mary Aycock, Remedial Project Manager, U.S. Environmental Protection Agency, Region IX, Mail Code SFD81 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–2389, email: *Aycock.Mary@epamail.epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

EPA Region IX is publishing this direct final Notice of Partial Deletion for the El Toro Marine Corp Air Station (Site), from the National Priorities List (NPL). This partial deletion pertains to all Site media, including soil and groundwater, of parcels I–A, II–A, III–A, II–J, II–Q, II–S, II–T, III–C, I–C, II–U, I–B, I–E, I–G, I–H, I–I, I–J, I–L, I–M, I–P, II–G, II–I, II–P, III–D, I–K, I–N, I–O, I–S, II–E, II–L, II–M, II–R, I–Q, I–R, II–B, II–K, and II–O of the Site. The properties proposed for deletion are shown in the map available in the partial deletion docket and will be referred to hereafter as ''the properties proposed for deletion.'' The NPL constitutes Appendix B of 40 CFR part 300 which is the Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the El Toro Marine Corp Air Station is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466 (Nov. 1, 1995). As described in 300.425(e)(3) of the NCP, a portion of a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective January 21, 2014 unless EPA receives adverse comments by December 19, 2013. Along with this direct final Notice of Partial Deletion, EPA is co-publishing a Notice of Intent for Partial Deletion in the ''Proposed Rules'' section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this partial deletion action, EPA will publish a timely withdrawal of this direct final Notice of Partial Deletion before the effective date of the partial deletion and the partial deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent for Partial Deletion and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the properties proposed for deletion of El Toro Marine Corp Air Station and demonstrates how they meet the deletion criteria. Section V discusses EPA's action to partially delete the Site parcels from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Partial Deletion Procedures

The following procedures apply to the properties proposed for deletion:

(1) EPA has consulted with the state of California prior to developing this direct final Notice of Partial Deletion and the Notice of Intent for Partial Deletion co-published in the ''Proposed Rules'' section of the **Federal Register**.

(2) EPA has provided the state 30 working days for review of this notice and the parallel Notice of Intent for Partial Deletion prior to their publication today, and the state, through the Department of Toxic Substances Control, has concurred on the partial deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Partial Deletion, a notice of the availability of the parallel Notice of Intent for Partial Deletion is being published in a major local newspaper, the Orange County Register. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL.

(4) The EPA placed copies of documents supporting the partial deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this partial deletion action, EPA will publish a timely notice of

withdrawal of this direct final Notice of Partial Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent for Partial Deletion and the comments already received.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for further response actions, should future conditions warrant such actions.

IV. Basis for Site Partial Deletion

The following information provides EPA's rationale for deleting the properties proposed for deletion from the NPL:

Site Background and History

The former El Toro Marine Corps Air Station (EPA ID: CA6170023208), (El Toro MCAS) covering approximately 4,712 acres in the City of Irvine, County of Orange, California is located at 33 degrees (°) 38 minutes (′) to 33°41′ north latitude,117°41′ to 117°45′ west longitude, Township 6 South, Range 6 West (T6S/R6W) (Sections 2–5, 7–11, 16–17, 20–21) and T5S/R8W (Sections 32–33, 35).

Development of former El Toro MCAS began in July 1942, when construction of a United States Marine Corps pilot's fleet operational training facility began on approximately 2,319 acres of land in Orange County, California. The Site was commissioned as El Toro Marine Corps Air Station on March 17, 1943. In 1950, the Station was selected for development as a master jet air station and permanent center for marine aviation of the west coast to support the operations and combat readiness of Fleet Marine Forces, Pacific. Between 1944 and 1986, additional land was acquired to bring the size of the on-station portion of the installation to 4,712 acres.

Major activities at the Site contributing to the generation of hazardous wastes included vehicle maintenance, ground support maintenance, aircraft maintenance, and aircraft corrosion control. Other waste generating activities included munitions disposal, pest control, fire protection training, and laboratory operations including photo development, non-destructive inspection, and fuel analysis. Wastes generated by the maintenance operations included spent solvents and waste oils (including TCE, TCA, MEK, toluene, and PD–680), fuels, greases removed from the spent solvents, and spent strippers. Aircraft washrack activities resulted in discharge of alkaline soaps, detergents, and small amounts of PD–680. Vehicle and aircraft waste discharge produced the greatest volume of industrial waste of any of the base activities.

A number of potentially contaminated areas were identified on the Site, including four landfills suspected of containing both hazardous and solid waste, and other areas where polychlorinated biphenyls (PCBs), battery acids, leaded fuels, and other hazardous substances were suspected of being dumped or spilled. A Remedial Investigation (RI) conducted by El Toro MCAS identified volatile organic compounds (VOCs), primarily trichloroethene (TCE), in groundwater that migrated more than three miles off base. The primary source of the groundwater contamination was two large aircraft hangars. Land irrigated by wells is located within three miles of the site; however, none of these wells are drinking water sources. Surface water flows into the Upper Newport Bay Ecological Reserve, located approximately eight miles from the base.

In recent years, portions of the Site were transferred to different governmental agencies. In 1998, the Bake Parkway/Interstate 5 public highway expansion project was completed resulting in the transfer of approximately 23 acres to the California Department of Transportation. In 2001, 896.7 acres in the northeast portion of the station were transferred to the Federal Aviation Administration.

The Site was decommissioned as an active base in July 1999. The parcels to be deleted from the NPL have all been transferred from the Department of the Navy (DON) to Heritage Fields LLC (Heritage Fields) under the Base Realignment and Closure Act of 1995. Heritage Fields plans to build a combination of residential, commercial, retail and educational facilities on Site. In addition, Heritage Fields has transferred 1,387 acres to the City of Irvine to create the Orange County Great Park. The Orange County Great Park will be home to a world-class Olympic-style sports village and entertainment center, a new high school and neighborhood elementary schools, and infrastructure and support for a substantially expanded Irvine transportation center. Redevelopment efforts are on-going.

The Site was proposed to be placed on the NPL on June 24, 1988 (53 FR 23988); and was placed on the NPL on February 21, 1990 (55 FR 6154). In October 1990, the U.S. EPA (EPA), California Department of Health Services (CDPH) (the CDPH was the predecessor program to the California Department of Health Toxic Substances Control (DTSC)), California Regional Water Quality Control Board (RWQCB) and the DON signed a Federal Facility Agreement (FFA) which formalized the process for environmental response actions and the relative roles of the EPA, state agencies, and the DON under CERCLA and the Installation Restoration Program (IRP). The FFA was signed by the EPA, the State of California, and the DON in October 1990.

Environmental Baseline Surveys (EBSs), which identify parcels of land for sale, lease, or needing further investigation, were completed in 1995 and 2003. The EBSs identified environmental factors and locations of concern (LOCs) where further evaluation and/or actions were ongoing or required. Once identified, these LOCs were reviewed by the DON, state regulatory agencies and EPA. Based upon this review, sites were either recommended for no further action (NFA) or for further sampling. Based upon the subsequent sampling, those sites either became NFA sites or proceeded to the more extensive Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) cleanup process.

The portions of the Site to be deleted from the NPL include 1,900.4 acres of contiguous property. All of these parcels have been transferred from the DON to Heritage Fields. Prior to transferring property at El Toro MCAS, the DON was required, pursuant to Section 102(h) of CERCLA, to document that all environmental impacts associated with the DON's activities on the Site had been thoroughly investigated and appropriate remedial actions have been taken to protect the public health, welfare, and the environment. DON presented this documentation in a series of successive Finding of Suitability to Transfer (FOST) documents. In each case, the FOST described the LOCs on the property to be transferred and the investigation and remedial actions taken at those properties to obtain concurrence from the EPA, CDPH/DTSC and RWQCB. A total of 7 FOSTs were finalized for all parcels to be deleted between July 2005 and September 2012.

LOC site narratives where release, disposal, and/or migration of hazardous substances occurred, but at concentrations that did not require a removal or remedial action because site conditions were found to be protective of both human health and the environment may be found in a tables appendix in the Deletion Docket. This appendix does not include LOCs that were only contaminated with petroleum, as these sites are not subject to CERCLA based on the petroleum exemption. In total, 112 such LOCs were thoroughly evaluated and recommended for no further action.

This partial deletion covers the following Site parcels: I–A, II–A, III–A, II–J, II–Q, II–S, II–T, III–C, I–C, II–U, I–B, I–E, I–G, I–H, I–I, I–J, I–L, I–M, I–P, II–G, II–I, II–P, III–D, I–K, I–N, I–O, I–S, II–E, II–L, II–M, II–R, I–Q, I–R, II–B, II–K, and II–O. A map identifying the areas to be deleted, as well as the areas to remain on the NPL, is available in the partial deletion docket.

1. Property Covered by FOST #1

Approximately 2,798 acres of the Site were covered by FOST #1, including 1,070.2 acres that EPA determined had not been impacted by hazardous waste and that therefore were not part of the NPL. These two areas of the Site were removed from the NPL through two clarification letters issued by EPA. Clarification Areas A, B, C, and D, consisting of 978.6 acres, were removed from the NPL through an EPA clarification letter dated October 27, 2005. Clarification Area E, consisting of 91.6 acres, was removed from the NPL through an EPA clarification letter dated March 21, 2006.

The unclarified portions of the FOST #1 area consisted of three Transfer Parcels: Transfer Parcels I–A, II–A, and III–A.

1.1 Transfer Parcel I–A

Transfer Parcel I–A was approximately 809.5 acres. This parcel contained 225 non-demolished buildings/structures/facilities including the units located in the Saddleback Terrace housing area. In addition, Parcel I–A contained IRP Site 20—Hobby Shop and a portion of IRP Site 25—Major Drainages.

1.1.1 IRP Site 20—Hobby Shop

Site Location and History

IRP Site 20—Hobby Shop encompassed approximately 0.5 acre immediately northwest of the intersection of North 9th Street and West Marine Way and included Building 626. Beginning in 1967, the site was used as an auto shop for military personnel to service and repair privately owned vehicles. Kerosene was reportedly used to wash down the paved area at the site until approximately 1976. The wash runoff drained into a catch basin situated in the entry driveway and finally drained into an oil/water separator (OWS). From 1976 until closure of the Hobby Shop in 1999, a biodegradable soap was used in place of kerosene.

Site 20 originally consisted of four units:

- Unit 1—Shallow Drainage Swale (1–2 feet below grade), adjacent to the east side of Building 626.
- Unit 2—South Drainage Ditch, ran along North 9th Street
- Unit 3—Stained Area, small area adjacent to the northwest side of Building 626
- Unit 4—Inner Courtyard of Building 626, an entry driveway, and a front-sloping area adjacent to the drainage ditch along North 9th Street. The inner portion was paved with asphalt. The entry driveway was concrete and crossed over the drainage ditch. The front area was covered with grass with some bare spots and various trees.

Remedial Investigations

Investigations at the IRP Site 20 included a RCRA Facility Assessment (RFA), a Phase I RI, aerial photograph surveys in 1993, and a Phase II RI in 1996. In 1997, Units 2 and 3 were excluded from the site based on the CERCLA petroleum exemption, 42 U.S.C. 9601(14)(F). Sites containing only petroleum contamination were, and continue to be remediated under the oversight of the RWQCB).

Soil sampling identified VOCs, semi-volatile organic compounds (SVOCs), PCBs, and pesticides at the site, all below residential PRGs. Arsenic was detected at concentrations above the former El Toro MCAS background value. The RI of the site indicated that the site-related contamination was limited to the shallow soil interval.

Selected Remedy

The human health and ecological risk assessments showed that the contaminants present in the soil did not present an unacceptable risk to human health or the environment. Therefore, no remedial action was required. A Record of Decision (ROD) for NFA was signed on September 30, 1997. No risks are present at IRP Site 20 and no institutional controls are present.

Response Actions and Cleanup Standards

No response actions have been taken and no cleanup standards have been set.

Operation and Maintenance

No operation and maintenance is required for this site.

1.1.2 IRP Site 25—Major Drainages

IRP Site 25 encompassed approximately 22 acres and comprised the four major washes that flowed through former El Toro MCAS. These included Agua Chinon Wash, Bee Canyon Wash, Borrego Canyon Wash, and Marshburn Channel. Three of these drainages (Agua Chinon Wash, Bee Canyon Wash, and Borrego Canyon Wash) were continuations of natural washes that originated in the Santa Ana Mountains. Surface drainage from the hills and upgradient irrigated farmland combined with runoff generated from extensive paved surfaces at former El Toro MCAS. The on-station storm sewer system discharged to the drainage channels, which then flowed into San Diego Creek. San Diego Creek discharged into upper Newport Bay, about 7 miles downstream from its intersection with Marshburn Channel. These washes traversed Transfer Parcels I–A, II–A, and III–A, and also traversed property that was not part of FOST #1.

Remedial Investigations

IRP Site 25 was constituted before the source of the regional VOC groundwater contamination had been identified as IRP Site 24 (which is not part of this deletion). IRP Site 25 was identified for a Phase II RI, but the drainages were investigated as part of the Phase I RI for IRP Sites 18 and 24 to evaluate the source of the off-site VOC groundwater plume. Potential contamination within the major drainages and San Diego Creek was assessed by analyzing surface water, sediment, soil, and soil gas samples. Except for the Borrego Canyon Wash, metals and pesticides were detected above former El Toro MCAS background concentrations in all drainages. Significant petroleum hydrocarbon contamination was detected at depths of 15 to 20 feet below ground surface (bgs) at the southern end of Agua Chinon Wash, near the former El Toro MCAS boundary.

Within the Agua Chinon Wash, total petroleum hydrocarbons (TPH) were detected at depths up to 57 feet bgs. The RI of the site indicated that the site-related contamination was limited to sediment and surface water.

Selected Remedy

The human health and ecological risk assessments showed that the contaminants present in these media did not present an unacceptable risk to human health or the environment. Therefore, no remedial action was

required. The Draft Final RI Report was completed in 1997, and a ROD for NFA was signed on September 30, 1997. No risks are present at IRP Site 25 and no institutional controls are present.

Response Actions and Cleanup Standards

No response actions have been taken and no cleanup standards have been set.

Operation and Maintenance

No operation and maintenance is required for this site.

1.2 Transfer Parcel II–A

Transfer Parcel II–A was approximately 1,439.6 acres. This parcel contained a golf course and 1,078 non-demolished buildings/structures/facilities which included the units located in San Joaquin, Vista Terrace, Navy/Marine (NAMAR), and Wherry housing areas. Transfer Parcel II–A included IRP Sites 6 and 19, and a portion of IRP Site 25 (described above).

1.2.1 IRP Site 6—Drop Tank Drainage Area No. 1

Site Location and History

IRP Site 6 encompassed approximately 3 acres bounded by taxiways to the north and west, a concrete aircraft parking apron to the east, and East Marine Way to the south. The site consisted of three units:

- Unit 1 was an area along the edge of a concrete parking apron where aircraft drop tanks were formerly drained of residual jet fuel and then cleaned prior to reuse.
- Unit 2 was a shallow drainage swale that extends from the north side of Building 727, west to a catch basin that eventually discharged into the Agua Chinon Wash. The catch basin received surface runoff and sediment from the site.
- Unit 3 was a flat, grass-covered area south of the drainage swale where drop tanks were stored.

From 1969 to 1983, aircraft drop tanks were transported to the site where the fuel remaining in the tanks was drained. Residual jet propulsion fuel, grade 5 (JP 5) in the tanks was drained to the concrete apron, and the combined fuel/rinse water ran onto the adjacent grassy area. In addition to fuel, waste lubricant oils from maintenance operations were also reportedly stored in drums and staged in the area.

Approximately 1,400 gallons of JP 5 fuel were reportedly drained from the drop tanks onto the concrete apron and washed onto the adjacent area. Portions of the unpaved areas at the site were also reportedly used for storing oil drums. It was estimated that approximately 300 gallons of waste oil leaked from these storage drums at the site.

Remedial Investigations

Investigations conducted at IRP Site 6 included a Phase I remedial investigation (RI) and aerial photograph surveys in 1993, employee interviews in 1994, and a Phase II RI in 1996. During the investigations, VOCs, SVOCs, and polynuclear aromatic hydrocarbons were detected at concentrations below residential PRGs. The maximum arsenic concentration was detected at a depth of Property of 8–10 feet bgs and was above the former El Toro MCAS background concentration for arsenic. The RI of the site indicated that the site-related contamination was limited to the shallow soil interval.

Selected Remedy

The human health and ecological risk assessments indicated that the contaminants present in the soil did not present an unacceptable risk to human health or the environment. Therefore, no remedial action was required. A ROD for NFA was signed on September 30, 1997.

Response Actions and Cleanup Standards

No response actions have been taken and no cleanup standards have been set.

Operation and Maintenance

No operation and maintenance is required for this site.

1.2.2 IRP Site 19—Aircraft Expeditionary Refueling Site

Site Location and History

IRP Site 19 was within Transfer Parcel II–A and encompassed approximately 4 acres southwest of Buildings 404 and 414. Between 1964 and 1986, the site operated as a fuel-storage and fuel-dispensing area. The site consisted of six 20,000-gallon JP 5 fuel bladders in 4-foot-high earthen revetments and associated piping and fuel-dispensing equipment. The site originally consisted of four units:

- Unit 1, Northeast Stained Area
- Unit 2, Excavated Areas;
- Unit 3, Stained Area Around Excavations; and
- Unit 4, Pump Station (this area was added for the Phase II RI and then was removed under the CERCLA petroleum exclusion).

Initial Response

Various spills and leaks reportedly occurred during operation of the site. In one instance, an estimated 20,000 gallons of JP 5 were reportedly released after a bladder rupture. Petroleum hydrocarbons were detected in the soil beneath the ruptured bladder.

The fuel bladders were removed in 1986, and the soil was excavated to a maximum depth of 15 feet bgs in a 30-foot-square area beneath the location of the bladder rupture (Unit 2). The excavation was partially backfilled to a depth of approximately 11 feet in 1994. Prior to backfill, soil samples were collected within the excavated area, i.e., IRP Site 19. No chemicals of potential concern were detected at concentrations greater than EPA industrial PRGs. In 1996, the remaining excavation was backfilled to grade the surrounding area with clean fill material. An additional 19,000-square-foot area beneath the locations of the other bladders was also excavated in 1986 to a depth of approximately 2.5 feet. All of the buildings/structures/facilities at the site were removed following site closure and were replaced by a pump station and UST complex situated adjacent to the east side of the site.

Remedial Investigations

Investigations conducted at the site included a Phase I RI and aerial photograph surveys in 1993, employee interviews in 1994, and a Phase II RI in 1996. The investigations indicated SVOCs at concentrations below residential PRGs, with the exception of benzo(a)pyrene, which was above the industrial PRG value. VOCs were detected at concentrations below residential PRGs. Arsenic was detected at concentrations above the industrial PRG value, and the maximum arsenic value was above the former El Toro MCAS background concentration.

Selected Remedy

The human health and ecological risk assessments showed that the contaminants present in the soil did not present an unacceptable risk to human health or the environment. A ROD for NFA for Units 2 and 3 was signed on September 30, 1997. Unit 1 was excluded from the IRP under the CERCLA petroleum exclusion in 1995 (closed by RWQCB in a letter dated May 14, 1997), and Unit 4 was excluded from the IRP under the CERCLA petroleum exclusion in 1997 (Unit 4 was being addressed with a number of USTs and the associated area was therefore unsuitable for transfer and was not part of FOST #1).

Response Actions and Cleanup Standards

No further response actions have been taken.

Operation and Maintenance

No operation and maintenance is required for this site.

1.2.3 PCB T56, concrete pad of transformer 56

Site Location and History

A minor release of transformer oil containing PCBs

Selected Remedy

No risks are present at PCB T56 and no institutional controls are present.

Response Actions and Cleanup Standards

The transformer was replaced and the concrete pad was removed. No further action was required.

Operation and Maintenance

No operation and maintenance is required for this site.

1.3 Transfer Parcel III–A

Transfer Parcel III–A was approximately 329.0 acres. This parcel contained 10 non-demolished buildings/structures/facilities, as well as a portion of IRP Site 13.

1.3.1 IRP Site 13—Oil Change Area

Site Location and History

IRP Site 13 encompassed approximately 34,000 square feet and was bounded on the north by Former Tank Farm No. 2 and on the south by the storage yard for Building 242. The site was situated within Transfer Parcel III–A and Carve-Out (CO) III–B. The site was relatively flat, unpaved, and generally unvegetated. Site 13 consisted of two units: Unit 1 comprised the area southeast of Tank Farm No. 2 and Unit 2 comprised the area southwest of Tank Farm No. 2. Trucks were driven to the area southeast of the tank farm (Unit 1) for oil changes, and crank case oil was frequently drained onto the ground. From 1977 to 1983, approximately 7,000 gallons of waste oil were drained onto the ground. The oily soil was subsequently removed, and no visible evidence of the oily soil remained. A review of aerial photographs indicated heavy staining throughout the area between the tank farm and Building 242 (Unit 2), which persisted over the years of photographic record. It is likely that oil changes were also conducted in that area.

Remedial Investigations

Investigations conducted at the site included an RFA, a Phase I RI and aerial photographic surveys in 1993, and employee interviews in 1994. VOCs, SVOCs, polynuclear aromatic hydrocarbons, and pesticides were detected at concentrations below residential PRGs. Arsenic was detected at concentrations above the industrial PRG from the surface to a depth of 80 feet bgs. The maximum arsenic concentration was below the former El Toro MCAS background concentration. Total recoverable petroleum hydrocarbons (TRPH) were detected at the soil surface and at a depth of 5 feet bgs. Based on the results of the Phase I RI investigation, a Phase II RI was not recommended. The RI of the site indicated that the site-related contamination was limited to the shallow soil interval.

Selected Remedy

The human health and ecological risk assessments showed that the contaminants present in the soil did not present an unacceptable risk to human health or the environment. A ROD for NFA was signed on September 30, 1997.

Response Actions and Cleanup Standards

No response actions have been taken and no cleanup standards have been set.

Operation and Maintenance

No operation and maintenance is required for this site. No deed restrictions were recommended for Site 13 due to chemicals present in the soil. However since the groundwater beneath Site 13 was contaminated by trichloroethylene (TCE) and tetrachloroethylene (PCE; also perchloroethylene) due to Site 24—VOC source area, when the NFA ROD was signed on September 30, 1997, the use restrictions prohibiting drilling of wells and/or extraction of groundwater and allowing access for groundwater monitoring and maintenance of equipment associated with groundwater remediation were to be addressed in the ROD for Site 18 and Site 24. When the Final ROD for Site 18 and Site 24 was completed in 2002, the updated VOC plume and 500 foot buffer zone were no longer located beneath Site 13. Consequently, groundwater restrictions due to the Site 24 VOC plume were no longer applicable for Site 13.

2. Property Covered by FOST #2

Approximately 8 acres of El Toro MCAS were covered by FOST #2. This area consisted of four Transfer Parcels (II–J, II–S, II–T, and III–C), and a portion of one Transfer Parcel (II–Q). Transfer parcels II–J and II–Q did not contain any CERCLA LOCs. Transfer Parcel II–T was approximately 0.5 acres in size and contained one building/structure/facility (Building 761). Transfer Parcel III–C was approximately 1 acre in size and contained one building/structure/facility (Building 240). NFA determinations were made for all LOCs within Transfer Parcels II–T and III–C.

2.1 Transfer Parcel II–S

Transfer Parcel II–S was approximately 1.3 acres in size and included six buildings/structures/facilities (Buildings 374, 377, 447, 448, 566, and 726) and former Building 603 (demolished).

2.1.1 RFA 131

Site Location and History

RFA 131, an engine test cell, was located within Transfer Parcel II–S near Building 447.

Initial Response

Near surface soils were removed in 1997.

Selected Remedy

DTSC concurred with NFA in a letter from July 1999. RWQCB concurred with NFA in June 2000.

Response Actions and Cleanup Standards

No further response actions have been taken.

Operation and Maintenance

No operation and maintenance is required for this site.

3. Property Covered by FOST #3

Approximately 3.9 acres of El Toro MCAS were covered by FOST #3.

Site Location and History

This area consisted of two Transfer Parcels referred to in FOST #3 as ''Carve-Outs'' (COs):

- CO I–C consisted of approximately 0.1 acre in the northeastern portion of the former base. This CO was created during preparation of the 2004 Finding of Suitability to Lease when a portion of an underground pipeline (Norwalk-El Toro Pipeline) was believed to exist within this area. However, based on a detailed review of the pipeline physical alignment, it was determined that no portion of the pipeline was within Transfer Parcel I–C. No buildings or utilities were located on the Transfer Parcel.
- CO II–U consisted of approximately 3.8 acres in the northeastern portion of the former base. No buildings or utilities were located on the CO.

Initial Response

A portion of the Norwalk-El Toro Pipeline was removed from CO II–U in the fall of 2006, with the exception of

approximately 100 feet of pipeline that remains under Agua Chinon Wash.

Remedial Investigations

The COs were evaluated during the initial phase of environmental assessment and the results were documented in the Final 2003 EBS. The EBS concluded that no hazardous substances were stored or released on the COs.

Selected Remedy

No further action was necessary in these areas.

Response Actions and Cleanup Standards

No response actions have been taken and no cleanup standards have been set.

Operation and Maintenance

No operation and maintenance is required for this site.

4. Property Covered by FOST #4

Approximately 42.9 acres of El Toro MCAS were covered by FOST #4.

Site Location and History

This area consisted of thirteen COs: COs I–B, I–E, I–G, I–H, I–I, I–J, I–L, I–M, I–P, II–G, II–I, II–P, III–D. COs I–L, I–M, I–P, II–G, II–I, and II–P did not contain CERCLA LOCs.

Remedial Investigations

As these COs did not contain CERCLA LOCs, no remedial investigations were conducted.

Selected Remedy

No Further Action determinations were issued for all LOCs within COs I–B, I–E, I–G, I–H, I–I, I–J, and II–G. CO III–D contained a portion of IRP Site 13. All other LOCs in CO III–D received NFA determinations and no cleanup was required.

Response Actions and Cleanup Standards

No response actions have been taken and no cleanup standards have been set.

Operation and Maintenance

No operation and maintenance is required for these sites.

5. Property Covered by FOST #5

Approximately 119.3 acres of El Toro MCAS were covered by FOST #5.

Site Location and History

This area included nine COs: COs I–F, I–K, I–N, I–O, I–S, II–E, II–L, II–M, II–R, and CO Building 746. CO I–F is not part of this deletion request and will remain on the NPL. CO Building 746 is located within CO II–D and is not part of this partial deletion request and will also remain on the NPL. COs I–K, I–N, I–O, I–S contained only petroleum LOCs or no release, disposal, and/or migration of hazardous substances occurred there.

Remedial Investigations

As these COs did not contain CERCLA LOCs, no remedial investigations were conducted.

Selected Remedy

No Further Action determinations were issued for all LOCs within CO II–E and II–M. CO II–L contained a portion of IRP Site 25. All other LOCs in CO II–L received NFA determinations and no cleanup was required.

Response Actions and Cleanup Standards

No response actions have been taken and no cleanup standards have been set.

Operation and Maintenance

No operation and maintenance is required for these sites.

5.1 CO II–R

CO II–R consisted of approximately 1.2 acres and was located in the southeast portion of the former base.

5.1.1 Resource Conservation and Recovery Act (RCRA) Facility Assessment (RFA) Site 244/PCB T74

Site Location and History

There was one pad-mounted transformer (PCB T74) at Building 457. Historically, disposal activities were conducted at this site, though the dates of these operations are unknown. A response action was required for releases of transformer oil containing PCBs at Building 457 (RCRA Facility Assessment (RFA) Site 244).

Remedial Investigations

While no remedial investigations were conducted under CERCLA, RFA Site 244/PCB T74 was evaluated under a RCRA Facility Assessment.

Selected Remedy

DTSC concurred with NFA for RFA 244 in a letter dated December 1998. EPA and DTSC concurred with NFA for PCB T74 in September 2003.

Response Actions and Cleanup Standards

Shallow soil samples that were collected in the area affected by the PCB release identified PCBs in one of the seven samples collected. The transformer was replaced and removal of impacted soils was completed in 1997. The response action was completed and closed in December 1998. No evidence of a release was observed during the visual site inspections conducted for the 2003 EBS. Building 457 was subsequently demolished to its foundation.

Operation and Maintenance

No operation and maintenance is required for this site.

6. Property Covered by FOST #6

Approximately 356.81 acres of El Toro MCAS were covered by FOST #6.

Site Location and History

This area included eleven COs: COs I–D, I–Q, I–R, II–B, II–K, II–N, II–O, III–B–1, III–B–2, III–E, and III–F. COs I–Q and I–R contained only petroleum LOCs and were therefore subject to the CERCLA petroleum exclusion, or no release, disposal, and/or migration of hazardous substances occurred there. As a result, these COs are not discussed in this document. Additionally, COs I–D, II–N, III–B–1, III–B–2, III–E, and III–F are not part of this partial deletion request and will remain on the NPL.

Remedial Investigations

As these COs did not contain CERCLA LOCs, no remedial investigations were conducted.

Selected Remedy

COs II–K contained a portion of IRP Site 25. All other LOCs in CO II–K received NFA determinations and no cleanup was required. All LOCs in CO II–O received NFA determinations and no cleanup was required.

Response Actions and Cleanup Standards

No response actions have been taken and no cleanup standards have been set.

Operation and Maintenance

No operation and maintenance is required for these sites.

6.1 CO II–B

CO II–B consisted of approximately 6.73 acres located in the northeast portion of the former base.

6.1.1 Temporary Accumulation Area (TAA) Site 130C

Site Location and History

TAA 130C was located northing of Building 130.

Remedial Investigations

While no remedial investigations were conducted under CERCLA, TAA 130C was evaluated under a RCRA Facility Assessment. Sampling indicated low levels of arsenic and chlorinated pesticides.

Selected Remedy

TAA 130C received site closure concurrence from DTSC in March 2009. No further action was required.

Response Actions and Cleanup Standards

Contaminated soil was excavated and confirmation soil samples were collected at TAA 130C in 2008.

Operation and Maintenance

No operation and maintenance is required for this site.

7. Property Covered by FOST #7

Approximately 151.06 acres of El Toro MCAS were covered by FOST #7. This area included three COs: COs II–F–1, II–Q, and II–V–1. There were no CERCLA LOCs within CO II–F–1 or CO II–V–1. As a result, COs II–F–1 and II–V–1 are not discussed in this document. Any contamination on these COs was, and continues to be remediated under the oversight of the RWQCB.

7.1 CO II–Q

CO II–Q consisted of approximately 84.49 acres located in the central portion of the former base and contained buildings 114, 124, 125, 126, 127, 230, 231, 363, 372, 642, 658, 677, 698, 716, 747, 752, 763, 779, 903, 923, 938, 952, and 1804. CO II–Q also contained structures 396, 558, 559, 560, 561, 659, 904, 905, 906, 907, 908, 909, 910, and 911. The DON leased this CO to Heritage Fields, LLC, who subsequently assigned the lease for the majority of this CO to the City of Irvine. CO II–Q includes portions of IRP 4 and 25.

7.1.1 IRP Site 4

Site Location and History

IRP Site 4 is located immediately southeast of Building 658, a former jet-engine testing facility. The site is bounded by 9th Street to the south, Building 658 to the north and west, and Tank Farm No. 5 to the east. The IRP Site 4 consists of two units: Unit 1 is an oil-stained area southeast of Building 658 which overlaps a concrete transformer pad, and Unit 2 is a drainage ditch which received runoff from a ferrocene spill.

The staining at Unit 1 was the result of oily discharges from Building 658, which were observed over an approximate 2-year period. The contamination at Unit 2 originated from an August 1983 spill, when the contents of a 500-gallon tank (wash water and residual jet fuel) reportedly overflowed during washing and spilled onto the ground, draining into a ditch adjacent to 9th Street. The spilled liquid reportedly contained approximately 5 gallons of ferrocene and a hydrocarbon carrier solution.

Remedial Investigations

Investigations conducted at IRP Site 4 included a Phase I RI and aerial photograph surveys in 1993. VOCs and SVOCs were below residential PRGs in both units.

Selected Remedy

The human health and ecological risk assessments showed that the contaminants present in the soil did not present an unacceptable risk to human health or the environment. Therefore, no remedial action was required. The NFA ROD was signed on September 30, 1997.

Response Actions and Cleanup Standards

No response actions have been taken and no cleanup standards have been set.

Operation and Maintenance

No operation and maintenance is required for this site.

Five Year Reviews

Cleanup activities at El Toro MCAS have resulted in the remediation of all Site-related contamination such that restrictions on use and/or institutional controls were unnecessary. Accordingly, no Five-Year Reviews were required under CERCLA.

Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k) and CERCLA Section 117, 42 U.S.C. 9617. Community input has been sought by the DON throughout the cleanup process. The El Toro MCAS Restoration Advisory Board (RAB) serves as a focal point for the exchange of information about environmental restoration activities between the DON, regulatory agencies, and the local community. RAB members review technical reports and plans pertaining to the El Toro MCAS cleanup and provide input to the DON and the regulatory agencies. RAB members serve as volunteers and act as a liaison to the specific community they represent including various cities and homeowner associations in the vicinity of El Toro MCAS. All RAB meetings are open to the public and anyone interested may attend. They are held semi-annually on a Wednesday evening in April and November at the Irvine City Hall, One Civic Center Plaza.

Community involvement for the areas that are the subject of this document has occurred by soliciting public comment on various documents depending on the site's investigation and cleanup (if needed) process. All NFA decision documents were issued for 30-day public comment periods with comments, if any, addressed in the Responsiveness Summary of the Record of Decision. In addition, sites where non-time critical removal actions occurred provided public involvement with the issuance of the engineering evaluation/cost analysis for public comment.

Since there are a number of ongoing investigations and cleanup at El Toro MCAS, community involvement activities such as the biannual RAB meetings will continue to occur.

Determination That the Criteria for Deletion Have Been Met

The NCP (40 CFR 300.425(e)) states that a site may be deleted from the NPL when no further response action is necessary. EPA, in consultation with the State of California, has determined that all appropriate response actions under CERCLA have been completed on the properties proposed for deletion. Therefore, these portions of the former El Toro Marine Corps Air Station meet the criteria of 40 CFR 300.425(e) and may be deleted from the NPL. The State of California, through the DTSC, concurred on this proposed deletion by letter dated February 1, 2013.

V. Partial Deletion Action

The EPA, with concurrence of the State of California through the Department of Toxic Substances Control, has determined that all appropriate response actions under CERCLA have been completed. Therefore, EPA is deleting parcels I–A, II–A, III–A, II–J, II–Q, II–S, II–T, III–C, I–C, II–U, I–B, I–E, I–G, I–H, I–I, I–J, I–L, I–M, I–P, II–G, II–I, II–P, III–D, I–K, I–N, I–O, I–S, II–E, II–L, II–M, II–R, I–R, II–B, II–K, and II–O of the El Toro Marine Corp Air Station Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective January 21, 2014 unless EPA receives adverse comments by December 19, 2013. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of partial deletion before the effective date of the partial deletion and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to partially delete and the comments

already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 22, 2013.

Jared Blumenfeld,

Regional Administrator Region IX.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR 1987 Comp., p. 193.

Appendix B—[Amended]

■ 2. Table 2 of Appendix B to part 300 is amended by revising the entry under ''El Toro Marine Corps Air Station'', California to read as follows:

Appendix B to Part 300—National Priorities List

* * * * *

TABLE 2—FEDERAL FACILITIES SECTION

State	Site name	City/county	Notes [a]
*	* * * * * * *		
CA	El Toro Marine Corps Air Station	El Toro	P
*	* * * * * * *		

[a] * * *

*P = Sites with partial deletion(s).

[FR Doc. 2013–27724 Filed 11–18–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 172

Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, Training Requirements, and Security Plans

CFR Correction

In Title 49 of the Code of Federal Regulations, Parts 100 to 177, revised as of October 1, 2012, on page 242, in § 172.101, in the Hazardous Materials Table, in the entry for ''Oxygen, compressed'', in column 10A, the letter ''A'' is added.

[FR Doc. 2013–27733 Filed 11–18–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

RIN 0648–AY96

[Docket No. 100813359–3908–02]

Endangered and Threatened Species; Protective Regulations for the Gulf of Maine Distinct Population Segment of Atlantic Sturgeon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim final rule.

SUMMARY: We, NMFS, are issuing an interim final regulation to conserve the Gulf of Maine Distinct Population Segment (DPS) of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*). On February 6, 2012, we listed the Gulf of Maine DPS of Atlantic sturgeon as threatened under the Endangered Species Act (ESA). When a species is listed as threatened under the ESA, we are required to issue protective regulations under section 4(d) of the ESA. Such protective regulations are ones deemed ''necessary and advisable for the conservation of the species'' and may include any act prohibited for endangered species under section 9(a)(1) of the ESA. This regulation extends the prohibitions listed in section 9 of the ESA to Gulf of Maine DPS Atlantic sturgeon. The prohibitions set forth in this rule are considered necessary and advisable for the conservation of this species. Given that the changes made to this rule are based on the new information that was not submitted as public comment on the proposed rule, we are publishing this rule as an interim final rule and are soliciting additional public comment. This document also announces the availability of a final Environmental Assessment that analyzes the environmental impacts of promulgating this interim final regulation.

DATES: This interim final rule is effective on December 19, 2013. Comments on this interim final rule must be received by December 19, 2013.

ADDRESSES: You may submit comments, identified by RIN No. 0648–AY96, by any of the following methods:

- *Federal eRulemaking Portal: http//www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* To the attention of Lynn Lankshear at (978) 281–9394.
- *Mail or hand-delivery:* Submit written comments to the Assistant Regional Administrator, Protected Resources Division, NMFS, Northeast Region, 55 Great Republic Drive, Gloucester, MA 01930.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

We will accept anonymous comments (enter ''n/a'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

The interim final rule and other reference materials regarding this determination are available electronically at *http://www.nero.noaa.gov/prot_res/atlsturgeon/* under the section titled ''What's New'' or by submitting a request to the Assistant Regional Administrator, Protected Resources Division, NMFS, Northeast Region, 55 Great Republic Dive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Kimberly Damon-Randall, (978) 282–8485; Lynn Lankshear, (978) 282–8473, or Lisa Manning, (301) 427–8466.

SUPPLEMENTARY INFORMATION:

Background

As described in the two **Federal Register** notices published February 6, 2012 (77 FR 5880 and 77 FR 5914), we determined that there are five Atlantic sturgeon DPSs within the United States. Along with the Gulf of Maine DPS, there are also the New York Bight, Chesapeake Bay, Carolina, and South Atlantic DPSs. We determined that listing the Gulf of Maine DPS as threatened and all of the other DPSs as endangered was warranted (77 FR 5880 and 77 FR 5914; February 6, 2012).

Section 9(a)(1) of the ESA prohibits any person subject to the jurisdiction of the United States from: (A) Importing any endangered species into, or exporting any endangered species from the U.S.; (B) taking any endangered species within the United States or the U.S. territorial sea; (C) taking any endangered species upon the high seas; (D) possessing, selling, delivering, carrying, transporting, or shipping, by any means whatsoever, any endangered species that was illegally taken; (E) delivering, receiving, carrying, transporting, or shipping in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity, any endangered species; (F) selling or offering for sale in interstate or foreign commerce any endangered species; or (G) violating any regulation pertaining to endangered species or to any threatened species of fish or wildlife. The ESA defines ''take'' as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct'' (16 U.S.C. 1532(19)). The term ''harm'' is defined by regulation as any act which kills or injures fish or wildlife. Such an act may include significant habitat modification or degradation that results in death or injury of wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding, or sheltering (50 CFR 222.102). The term ''harm'' is used in this rule as defined in the regulations.

The prohibitions listed under section 9(a)(1) of the ESA automatically apply when a species is listed as endangered but not when listed as threatened. When a species is listed as threatened, section 4(d) of the ESA requires the Secretary of Commerce (Secretary) to issue regulations, as deemed necessary and advisable, to provide for the conservation of the species. The Secretary may, with respect to any threatened species, issue regulations that prohibit any act covered under section 9(a)(1). Whether section 9(a)(1) prohibitions are necessary and advisable for a threatened species is largely dependent on the biological status of the species and the potential impacts of various activities on the species.

The Atlantic Sturgeon Status Review Report (ASSRT, 2007), the Final Listing Determinations for Three Distinct Population Segments of Atlantic Sturgeon in the Northeast Region (77 FR 5880; February 6, 2012), and the Proposed Protective Regulations for the Gulf of Maine Distinct Population Segment of Atlantic Sturgeon (76 FR 34023; June 10, 2011) contain a thorough account of the status of the Gulf of Maine DPS and impacts to Atlantic sturgeon belonging to the Gulf of Maine DPS. In addition, new information has become available since publication of the proposed protective regulations for the Gulf of Maine DPS, as detailed below.

New tagging and tracking data, provided to us as a result of ongoing studies, indicates that Atlantic sturgeon tagged in the United States range in the marine environment from as far north as the St. Lawrence River, Canada (D. Fox, DSU, pers. comm.) to as far south as Cape Canaveral, FL (T. Savoy, CTDEP, pers. comm.). The description of the northern and southern extent of the marine range for the Gulf of Maine DPS was extended to include these areas, and it is described in detail in the final listing rule for the Northeast Region. Recent acoustic tracking data recovered from a receiver in the Back River, Maine, which is associated with the Kennebec River Estuary, also indicated the occurrence of Atlantic sturgeon in this river (G. Zydlewski, pers. comm.).

Summary of Comments Received on the Proposed Rule

We solicited comments on the proposed rule from all interested parties including the public and other governmental agencies. Three comments were submitted on the action during the 60-day comment period from interested parties, including environmental and industry groups. In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual state and Federal interest, we contacted and invited comment from the relevant state agencies for Maine, New Hampshire, and Massachusetts as well as the from the Atlantic States Marine Fisheries Commission (ASMFC). All comments received on the proposed rule are summarized and addressed below.

Comment 1: The ASMFC opposed the proposed ESA 4(d) rule on the grounds that extending the section 9 prohibitions to Gulf of Maine DPS Atlantic sturgeon is not warranted at this time and implementing such measures could diminish Gulf of Maine DPS restoration efforts currently being conducted by states and local jurisdictions.

Response: Having determined that the Gulf of Maine DPS of Atlantic sturgeon warranted listing as a threatened species (77 FR 5880; February 6, 2012), we are required to issue such regulations as deemed necessary and advisable to provide for the conservation of the species. We disagree with the commenter that the implementation of ESA section 9 measures for the Gulf of Maine DPS of Atlantic sturgeon will diminish conservation efforts currently underway. We have taken steps to reduce applicant waiting time for issuance of section 10 scientific research permits for ongoing or anticipated directed scientific research efforts for Atlantic sturgeon, thereby alleviating the primary rationale for this concern. A batch of 10(a)(1)(A) permits authorizing directed research on Atlantic sturgeon was issued on April 4, 2012.

Comment 2: One commenter requested clarification of language on the salvage of dead fish and the rescue of stranded fish, which were exempted in certain portions of the riverine range of the Gulf of Maine DPS in the proposed rule. The commenter specifically requested that the word ''agent'' be expanded to include the staff biologists, consulting biologists, or other qualified personnel who work for the owners of the hydroelectric projects affected by the rule. The commenter felt that this would allow a more prompt response to rescue or salvage events,

which would aid the recovery of the species. The commenter added that some of these personnel already have the ability to work with federally endangered species such as shortnose sturgeon and Atlantic salmon.

Response: Salvage of dead endangered shortnose sturgeon is permitted pursuant to section 10(a)(1)(A) of the ESA under permit number 1614. We have modified the permit to include Atlantic sturgeon. Individuals who are interested in participating in Atlantic sturgeon salvage activities and who are not already identified in the shortnose sturgeon permit should contact the Northeast Region, Protected Resources Division (see **ADDRESSES**) for further information about Atlantic sturgeon salvage activities conducted under permit number 1614.

Comment 3: Two comments were received regarding sightings of Atlantic sturgeon in areas not previously described. One commenter felt that NMFS should investigate the Atlantic and shortnose sturgeon within the Scarborough Marsh complex and consider listing them as DPSs, because both species are commonly seen in the Libby River, the Nonesuch River, and the Scarborough River by waterfront residents and resource users (including the commenter). The commenter felt that efforts should be made to understand the sturgeon population in this area. Similarly, information for an Atlantic sturgeon occurrence in the Presumpscot River, immediately below Presumpscot Falls, was provided by another commenter. The commenter felt that additional investigation into the occurrence and status of Atlantic sturgeon using the Presumpscot River may be warranted and provided a reference for the information on the documented catch of the sturgeon (Yoder *et al.,* 2009).

Response: We appreciate the information indicating that both shortnose and Atlantic sturgeon are present in these coastal rivers. Shortnose sturgeons are currently listed as a single species and are not part of the recent listing determinations for Atlantic sturgeon. The recent listing determinations provide information on the status and listing of Atlantic sturgeon as five DPSs (77 FR 5880 and 77 FR 5914; February 6, 2012). Our current understanding of Atlantic sturgeon in the Gulf of Maine DPS is that spawning for the DPS occurs in the Kennebec Complex (77 FR 5880; February 6, 2012). Information on Atlantic sturgeon in the Scarborough Marsh complex and in the Presumpscot River contributes to our knowledge of Atlantic sturgeon distribution and habitat use. We will consider this information when making future decisions about Atlantic sturgeon research priorities and when designating critical habitat.

Atlantic sturgeon are known to make extensive marine migrations and to make use of rivers other than their natal river (i.e., river of origin) (ASSRT, 2007). Atlantic sturgeon using the Presumpscot River and the Scarborough Marsh Complex are likely to be either migrants from the Kennebec Complex, sturgeon from one of the four endangered DPSs, sturgeons that originate from Canadian rivers (e.g., the St. John or St. Lawrence rivers), or a combination of all of these. We will consider this information provided by these comments when monitoring the status of Atlantic sturgeon in Maine and when completing 5-year status reviews of the listed DPSs. At this time, however, we do not have sufficient information to revise the current listing of particular DPSs.

Other Information Received During the Public Comment Period

Although not submitted as official comments to the proposed rule, NMFS became aware of new information on the Atlantic sturgeon's use of non-natal rivers during the public comment period. Researchers from Delaware State University (DSU) provided NMFS with new information on the occurrence of 105 acoustically tracked Atlantic sturgeon within tidal freshwaters of the Delaware and Hudson rivers (D. Fox, DSU, pers. comm.). These sturgeon were captured in marine waters near the mouth of the Delaware Bay where Atlantic sturgeon from different DPSs are known to mix. Genetic analysis of a tissue sample from each sturgeon identified the origin (by DPS) of the 105 sturgeon as: 58 New York Bight DPS sturgeon, 19 Chesapeake Bay DPS sturgeon, 16 South Atlantic DPS sturgeon, 11 Gulf of Maine DPS sturgeon, and 1 Carolina DPS sturgeon. In addition to genetic analyses, each fish was fitted with a tracking tag. Receivers placed in areas of the Delaware and Hudson rivers, including low-salinity waters (salinity values as low as 0.5 ppt), recorded the presence of the tagged fish within a certain distance of the receiver. Based on the data collected by the receivers for three field seasons (2009–2011), 35 of the 105 Atlantic sturgeon appeared one or more times within low-salinity waters (less than 0.5 ppt) of the Delaware or Hudson rivers. Comparing the tracking results and genetic results, 29 of the 35 Atlantic sturgeon belonged to the New York Bight DPS. The remaining six fish represented three other DPSs: 2 sturgeon from each of the Chesapeake Bay, South Atlantic, and Gulf of Maine DPSs. Of the 70 sampled and tagged Atlantic sturgeon that were not detected in tidal freshwater areas of the Delaware or Hudson rivers, 29 were New York Bight DPS sturgeon, 17 were Chesapeake Bay DPS sturgeon, 14 were South Atlantic DPS sturgeon, 9 were Gulf of Maine DPS sturgeon, and 1 was a Carolina DPS sturgeon. Thus, 50 percent of the New York Bight DPS sturgeon (29 of 58 captured) occurred in low-salinity waters of either the Delaware or Hudson rivers. In comparison, less than 20 percent of the non-New York Bight DPS sturgeon (2 of 19 Chesapeake Bay DPS, 2 of 16 South Atlantic DPS, and 2 of 11 Gulf of Maine DPS) occurred in low-salinity waters of the Delaware or Hudson rivers.

Individual-based assignment and mixed stock analyses of Atlantic sturgeon tissue samples have shown that Atlantic sturgeon tend to aggregate within the geographic region closest to their spawning river (Wirgin *et al.,* in review). For example, individual-based assignment and mixed stock analysis of samples collected from sturgeon incidentally captured in Canadian fisheries in the Bay of Fundy indicated that 35% were from the Gulf of Maine DPS while only about 1 to 2 percent were from the New York Bight DPS. The same tests conducted on samples from Atlantic sturgeon captured in the U.S. Mid-Atlantic Bight Region revealed that greater than 40 percent of the sturgeon were from the New York Bight DPS, approximately 20 percent were from the Chesapeake Bay DPS, and only 8 percent were Gulf of Maine DPS sturgeon (Wirgin and King, 2011).

We considered all of the information received during the public comment period, including the new information that became available but was not submitted as a public comment. We recognize that the information submitted for the 105 acoustically tracked Atlantic sturgeon (D. Fox, DSU, pers. comm.) has not been peer reviewed or published. We also considered that the information for individual-based assignment and mixed stock analyses of Atlantic sturgeon tissue samples (Wirgin *et al.,* in review) have not yet been published. We concluded, however, that the methods to collect the biological samples from the 105 Atlantic sturgeon for analysis, and the methods for analyzing the biological samples for genetics (mitochondrial DNA and microsatellite DNA) and for determining the river and DPS of origin for sampled sturgeon of each study have been used previously

and reported in published and peer-reviewed publications (Atlantic Sturgeon Status Review 2007; Damon-Randall *et al.,* 2010; King *et al.,* 2001; Wirgin *et al.,* 2002). The same methods were also used for the sturgeon genetics data that support the delineations of Atlantic sturgeon into five DPSs, and the determination to list each DPS under the ESA (77 FR 5880 and 77 FR 5904; February 6, 2012). Therefore, we concluded that the information provided by D. Fox (pers.comm.) and Wirgin *et al.* (in review) do provide the best available information.

We had proposed to apply all of the section 9 prohibitions to the Gulf of Maine DPS with two exemptions: (1) Scientific research conducted on Gulf of Maine DPS Atlantic sturgeon within the riverine portion of its range and in accordance with accepted NMFS protocol(s); and, (2) salvage of dead and recovery of live stranded or injured Gulf of Maine DPS Atlantic sturgeon found within the riverine range of the Gulf of Maine DPS (76 FR 34023; June 10, 2011). All Atlantic sturgeon have the same marine range and appearance regardless of the DPS of origin (Stein *et al.,* 2004; USFWS, 2004). Therefore, to ensure that only Atlantic sturgeon listed as threatened (i.e., Gulf of Maine DPS Atlantic sturgeon) would be taken in the course of the exempted activities, we considered in what areas would we expect to find only Atlantic sturgeon from the Gulf of Maine DPS. Based on Atlantic sturgeon life history information available at the time of the proposed rule, we concluded that using a threshold salinity of less than 20 ppt for rivers draining into the Gulf of Maine would ensure that only Gulf of Maine DPS Atlantic sturgeon would occur in those riverine waters and, thus, only threatened Gulf of Maine DPS Atlantic sturgeon would be taken as a result of the exempted activities. However, the new information from tracked Atlantic sturgeon in the Delaware and Hudson rivers, conflicts with our previous conclusion.

The available information suggests that Atlantic sturgeon in Gulf of Maine marine waters are predominantly Gulf of Maine DPS Atlantic sturgeon, and that the Atlantic sturgeon found in low-salinity waters of the Gulf of Maine DPS are more likely to be Gulf of Maine DPS Atlantic sturgeon than Atlantic sturgeon from another DPS. Nevertheless, the data collected for sturgeon in low-salinity waters of the Delaware and Hudson rivers indicates that Atlantic sturgeon will enter low-salinity waters of rivers that are not part of their DPS and the individual-based assignment and mixed stock analysis do not preclude the likelihood that Atlantic sturgeon will occur in the vicinity of non-natal rivers. Therefore, we concluded that sturgeon belonging to the New York Bight, Chesapeake Bay, Carolina or South Atlantic DPSs may occur in waters of less than 20 ppt within rivers of the Gulf of Maine DPS. Since there is no way of visually identifying a sturgeon to its DPS, the proposed exemptions could result in the illegal take of Atlantic sturgeon listed as endangered. Consequently, this interim final rule applies all of the section 9 prohibitions to the Gulf of Maine DPS with no exceptions.

Removing the exemptions for certain scientific research and rescue/salvage activities will not change as a practical matter the ability to conduct these activities, nor will it change the conservation benefit of these regulations for the Gulf of Maine DPS of Atlantic sturgeon. All researchers currently conducting scientific research for Atlantic sturgeon within Maine rivers and in the Merrimack River, MA have received authorization under section 10(a)(1)(A) of the ESA to continue their work. Therefore, removing the exemption for scientific research will not deter or prevent these ongoing scientific studies. Similarly, the authority to conduct salvage for Atlantic sturgeon from all five of the DPSs is currently authorized under a permit. Personnel that were already included on the permit when it pertained only to shortnose sturgeon (e.g., State of Maine personnel) were automatically authorized to also conduct salvage activities for Atlantic sturgeon when the permit was modified. Other qualifying individuals (e.g., hydropower personnel) can also be added to the salvage permit as authorized co-investigators. The salvage permit provides for broader participation in Atlantic sturgeon salvage activities than what would have been provided through the salvage exemption in the 4(d) rule. Lastly, the biological opinions to be completed under section 7 of the ESA for federally-managed fisheries and other activities subject to section 7 will include a provision for resuscitating sturgeon. Therefore, while the final 4(d) rule omits the exemption for resuscitation, the authority to conduct the activity will be provided elsewhere.

Summary of Changes From the Proposed Rule

Based on the new information collected from sturgeon tracked in low-salinity waters of the Delaware and Hudson rivers and the individual-based assignment and mixed stock analysis, we removed the exemptions for scientific research and the salvage of dead, and the aiding of live, injured Gulf of Maine DPS Atlantic sturgeon. We are publishing this decision as an interim final rule and are allowing 30 days of public comment given that the changes made are based on the new information that was not submitted or posted as public comment on the proposed rule.

Summary of Status and Threats to the Gulf of Maine DPS

Genetic data and tagging information support the conclusion that the Gulf of Maine DPS includes all Atlantic sturgeon spawned in the watersheds extending from the Maine/Canadian border southward to include all watersheds draining into the Gulf of Maine as far south as Chatham, MA. The marine range, including coastal bays and estuaries, of Atlantic sturgeon belonging to the Gulf of Maine DPS extends from Hamilton Inlet, Labrador, Canada to Cape Canaveral, FL and overlaps with the marine range of Atlantic sturgeon that originate from the other four Atlantic sturgeon DPSs.

Because Atlantic sturgeon use both riverine waters and the marine environment, they are affected by a multitude of activities. Coast-wide commercial over-harvesting throughout the 19th century and most of the 20th century caused a precipitous decline in Atlantic sturgeon abundance for all of the U.S. Atlantic sturgeon DPSs. A coast-wide moratorium on harvesting Atlantic sturgeon was implemented in 1998 pursuant to Amendment 1 of the ASMFC Interstate Fishery Management Plan for Atlantic sturgeon (ASMFC, 1998). Retention of Atlantic sturgeon from the U.S. Exclusive Economic Zone (EEZ) was prohibited by NMFS in 1999 (64 FR 9449; February 26, 1999). However, despite these prohibitions on directed fishing for and retention of incidentally caught Atlantic sturgeon, other anthropogenic activities continue to take Atlantic sturgeon. These include incidental bycatch in commercial fisheries, vessel strikes, activities affecting water quality, and habitat disturbances such as dredging.

Spawning has been confirmed only in the Kennebec Complex (i.e., the Kennebec and Androscoggin rivers). Spawning may be occurring in the Penobscot River, but this has not been confirmed. Atlantic sturgeon are captured in directed research projects in the Penobscot River and are observed in many other Maine rivers (e.g., the Saco River, including the Scarborough Marsh complex, the Presumpscot River, the Back River). These observations suggest that abundance of the Gulf of Maine

DPS of Atlantic sturgeon is sufficient such that recolonization to rivers historically suitable for spawning may be occurring. Additional genetic analyses of collected tissue samples are needed to confirm the origin of Atlantic sturgeon observed in Maine rivers historically used by the Gulf of Maine DPS.

Despite the past impacts of exploitation, industrialization and population expansion, the DPS has persisted and is now showing signs of potential recovery (e.g., increased abundance and/or expansion into its historical range). In addition, some of the impact from the threats which facilitated its decline have been removed (e.g., directed fishing) or reduced as a result of improvements in water quality since passage of the Clean Water Act (CWA); removal of dams (e.g., the Edwards Dam on the Kennebec River in 1999); reductions in fishing effort in state and federal water, which may have resulted in a reduction in overall bycatch mortality; and the implementation of strict regulations on the use of fishing gear in Maine state waters that incidentally catch sturgeon. As indicated by the mixed stock analysis results, fish from the Gulf of Maine DPS are not commonly taken as bycatch in areas south of Chatham, MA (Wirgin and King, 2011). Of the 84 observed Atlantic sturgeon interactions with fishing gear in the Mid Atlantic/Carolina region, only 8 percent (e.g., 7 of the 84 fish) were assigned to the Gulf of Maine DPS (Wirgin and King, 2011). Tagging results also indicate that Gulf of Maine DPS fish tend to remain within the waters of the Gulf of Maine and only occasionally venture to points south (Eyler, 2006; Eyler, 2011).

Water quality within the Gulf of Maine has improved significantly since the mid-1970's in part due to mandates following implementation of the Clean Water Act and bans on certain pesticide use in the early 1970's (Davies and Tsomides, 1999; EPA, 2004; Lichter *et al.,* 2006; EPA, 2008; Courtemanch *et al.,* 2009) and unlike in areas farther south (e.g., portions of the Taunton River and Chesapeake Bay; Taunton River Journal, 2006; ASSRT, 2007; EPA, 2008), it is very rare to have issues with low dissolved oxygen concentrations (that negatively affect Atlantic sturgeon) in the Gulf of Maine.

A significant amount of fishing in the Gulf of Maine is conducted using trawl gear, which has been documented to have a lower mortality rate for Atlantic sturgeon than sink gillnet gear. Given the reduced level of threat to the Gulf of Maine DPS, the anticipated distribution of Gulf of Maine DPS fish predominantly in the Gulf of Maine, and the positive signs regarding distribution and abundance within the DPS, we concluded that the Gulf of Maine DPS is not currently endangered. However, studies have shown that Atlantic sturgeon can only sustain low levels of bycatch and other anthropogenic mortality (e.g., vessel strikes) (Boreman, 1997; ASMFC, 2007; Kahnle *et al.,* 2007; Brown and Murphy, 2010). We anticipate that sink gillnet fishing effort will increase in the Gulf of Maine as fish stocks are rebuilt. In addition, individual-based assignment and mixed stock analysis of samples collected from sturgeon captured in Canadian fisheries in the Bay of Fundy indicated that approximately 35% of the Atlantic sturgeon were from the Gulf of Maine DPS (Wirgin *et al.,* in review). There are no current regulatory measures to address the bycatch threat to Gulf of Maine DPS Atlantic sturgeon posed by U.S. Federal fisheries or fisheries that occur in Canadian waters. Potential changes in water quality as a result of global climate change (temperature, salinity, dissolved oxygen, contaminants, etc.) in rivers and coastal waters inhabited by Atlantic sturgeon will likely affect riverine populations. Therefore, despite some management efforts and improvements, we concluded that the Gulf of Maine DPS is at risk of becoming endangered in the foreseeable future throughout all of its range (i.e., is a threatened species) as a result of the persistent threats from bycatch, habitat impacts from continued degraded water quality and dredging in some areas, and the lack of measures to address these threats.

Protective Regulations for the Gulf of Maine DPS of Atlantic Sturgeon

Protecting the Gulf of Maine DPS of Atlantic sturgeon from direct forms of take, such as physical injury or killing, whether incidental or intentional, will help preserve and recover the DPS. Likewise, protecting Gulf of Maine DPS Atlantic sturgeon from indirect forms of take, such as harm that results from habitat degradation, will help to reduce synergistic, negative effects from other stressors impeding recovery of the DPS. Therefore, we are extending the ESA section 9(a)(1)(A) through 9(a)(1)(G) prohibitions to all activities impacting the Gulf of Maine DPS throughout its range.

Identification of Activities That Would Constitute a Violation of Section 9 of the ESA

On July 1, 1994 (59 FR 34272), NMFS and the FWS (collectively, the ''Services'') published a policy committing us to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the ESA. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within the species range.

Based upon available information, we believe that the activities that may take Gulf of Maine DPS Atlantic sturgeon include, but are not limited to: (1) Commercial and recreational fisheries; (2) scientific research and monitoring of Atlantic sturgeon, (3) emergency rescue/salvage of Atlantic sturgeon; (4) scientific research and monitoring directed at other species; (5) habitat altering activities affecting passage of adult sturgeon to and from spawning areas and availability of habitat for egg, larval or juvenile stages (6) entrainment and impingement of all life stages of Gulf of Maine DPS sturgeon during the operation of water diversions, dredging projects, and power plants; (7) activities impacting water quality for all life stages of Gulf of Maine DPS sturgeons such as discharge, dumping, or applications of toxic chemicals, pollutants, or pesticides into waters or areas that contain Gulf of Maine DPS sturgeons; (8) vessel strikes; and, (9) introduction or release of non-native species that are likely to alter the habitats of, or to compete for space or food, with Gulf of Maine DPS Atlantic sturgeons.

This list is not exhaustive. It is intended to provide examples of the types of activities that are most likely to result in take of Gulf of Maine DPS Atlantic sturgeons and a violation of this rule. Whether a take results from a particular activity is dependent upon the facts and circumstances of each incident. The fact that an activity may fall within one of these categories does not mean that the specific activity will cause a take. Due to such factors as location, timing, and scope, specific actions may not result in direct or indirect adverse effects on the species. Further, an activity not listed here may in fact result in a take. Questions regarding whether specific activities would constitute a take prohibited by this rule, and general inquiries regarding prohibitions and permits, should be directed to the NMFS Northeast Regional Office (see **ADDRESSES**).

Activities Affecting the Gulf of Maine DPS That Do Not Violate ESA Section 9

Section 9(a)(1)(A), 10(a)(1)(A), and 10(a)(1)(B) of the ESA provide the

authority to grant exemptions to the section 9 prohibitions. Section 10(a)(1)(A) scientific research and enhancement permits may authorize exemptions to any of the section 9 prohibitions and may be issued to Federal and non-Federal entities conducting research or conservation activities that involve directed (i.e., intentional) take of listed species. Section 10(a)(1)(B) take permits may be issued to non-Federal entities performing activities that may incidentally take listed species in the course of an otherwise legal activity. Impacts on the Gulf of Maine DPS from actions in compliance with such permits would not constitute violations of this rule. Likewise, federally funded or approved activities that incidentally take Gulf of Maine DPS Atlantic sturgeon would not constitute violations of this rule when the activities are conducted in accordance with an incidental take statement issued through a biological opinion provided by NMFS pursuant to section 7 of the ESA.

References Cited

A complete list of the references used in this final rule is available upon request or on our Web site (see **ADDRESSES**).

Classification

National Environmental Policy Act (NEPA)

Whenever a species is listed as threatened, the ESA requires that we issue regulations as we deem necessary and advisable to provide for its conservation. Accordingly, the promulgation of ESA section 4(d) protective regulations is subject to the requirements of NEPA, and we have prepared a final Environmental Assessment (EA) analyzing the 4(d) regulations and alternatives. The EA is available upon request, via our Web site (see **ADDRESSES**) or via the Federal eRulemaking Web site at *http://www.regulations.gov.*

Executive Order (E.O.) 12866

This interim final rule has been determined to be not significant for the purposes of E.O. 12866.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. None of the public comments submitted to NMFS addressed this certification, and no new information has become available that would change this determination. As a result, no final regulatory flexibility analysis is required and none has been prepared.

Paperwork Reduction Act (PRA)

This interim final rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

E.O. 13132—Federalism

E.O. 13132 requires agencies to take into account any federalism impacts of regulations under development. It includes specific consultation directives for situations where a regulation will preempt state law, or impose substantial direct compliance costs on state and local governments (unless required by statute). Pursuant to the Executive Order on Federalism, E.O. 13132, we provided notice of the proposed action and requested comments from appropriate state resource agencies of the states in which riverine range for the Gulf of Maine DPS occurs. No comments were received from the state agencies.

E.O. 12898—Environmental Justice

E.O. 12898 requires that Federal actions address environmental justice in decision-making process. In particular, the environmental effects of the actions should not have a disproportionate effect on minority and low-income communities. We have determined that this interim final rule will not have a disproportionately high effect on minority populations or low-income populations.

Coastal Zone Management Act (16 U.S.C. 1451 et seq.)

Section 307(c)(1) of the Federal Coastal Zone Management Act of 1972 requires that all Federal activities that affect any land or water use or natural resource of the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. NMFS has determined that this action is consistent to the maximum extent practicable with the enforceable policies of approved Coastal Zone Management Programs of each of the states within the riverine range of the Gulf of Maine DPS. Letters documenting NMFS's determination, along with the proposed rule, were sent to the coastal zone management program offices in each affected state. A list of the specific state contacts and a copy of the letters are available upon request.

List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Transportation.

Dated: November 13, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 223 is amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In subpart B of part 223, add § 223.211 to read as follows:

§ 223.211 Atlantic sturgeon.

(a) *Prohibitions.* The prohibitions of sections 9(a)(1)(A) through 9(a)(1)(G) of the ESA (16 U.S.C. 1538) relating to endangered species apply to the threatened Gulf of Maine Distinct Population Segment (Gulf of Maine DPS) of Atlantic sturgeon listed in § 223.102(c)(29).

(b) [Reserved]

[FR Doc. 2013–27734 Filed 11–18–13; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 223
Tuesday, November 19, 2013

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1202; Directorate Identifier 2012–NE–38–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (Formerly Rolls-Royce Deutschland GmbH, Formerly BMW Rolls-Royce GmbH) Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede existing airworthiness directive (AD) 2012–26–14 that applies to all Rolls-Royce Deutschland Ltd & Co KG (RRD) BR700–715A1–30, BR700–715B1–30, and BR700–715C1–30 turbofan engines. AD 2012–26–14 currently requires removal from service of the high-pressure (HP) compressor stages 1 to 6 rotor disc assembly before exceeding certain thresholds. Since we issued AD 2012–26–14, RRD developed a new silver-free nut that, if installed with a new HP compressor stages 1 to 6 disc assembly, would correct the unsafe condition identified in AD 2012–26–14. Therefore, we propose to supersede AD 2012–26–14 to restrict the applicability to engines exposed to silver plated nuts. Additionally, we are removing the terminating action statement from AD 2012–26–14 based on a comment received. This proposed AD would require removal from service of certain HP compressor stages 1 to 6 rotor disc assemblies before exceeding certain thresholds. We are proposing this AD to prevent failure of the HP compressor stages 1 to 6 rotor disc assembly, which could lead to an uncontained engine failure and damage to the airplane.

DATES: We must receive comments on this proposed AD by January 21, 2014.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, Dahlewitz, 15827 Blankenfelde-Mahlow, Germany; phone: 49 0 33–7086–1200; fax: 49 0 33–7086–1212. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the MCAI, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Robert Morlath, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238 7154; fax: 781–238 7199; email: *robert.c.morlath@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–1202; Directorate Identifier 2012–NE–38–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On December 27, 2012, we issued AD–2012–26–14, Amendment 39–17309 (78 FR 2195, January 10, 2013) (''AD 2012–26–14'') for RRD BR700–715A1–30, BR700–715B1–30, and BR700–715C1–30 turbofan engines. AD 2012–26–14 requires removal from service of the HP compressor stages 1 to 6 rotor disc assembly before exceeding certain thresholds. AD 2012–26–14 resulted from a report of silver chloride-induced stress corrosion cracking of the HP compressor stages 1 to 6 rotor disc assembly, identified during overhaul. We issued AD 2012–26–14 to prevent failure of the HP compressor stages 1 to 6 rotor disc assembly, which could lead to an uncontained engine failure and damage to the airplane. We set a separate compliance standard for engines operated under the Hawaiian Flight Mission. The different cycle limits are established because the Hawaiian Flight Mission profile was sufficiently different from the normal flight profile as to affect the cyclic loading on the life limited parts.

Actions Since Existing AD Was Issued

Since we issued AD 2012–26–14, RRD released new part number (P/N) components as a design fix for the issue described above.

We gave the public the opportunity to comment on AD 2012–26–14. We received two comments. The following presents the comments received, and the FAA's response to each comment.

Comments

Request To Include HP Compressor P/Ns in the AD

Southwest Airlines (SWA) requested that we include the P/Ns of the affected HP compressor stages 1 to 6 rotor disc

assemblies in this AD. The commenter provided no justification for this request.

We partially agree. We agree with revising the Applicability paragraph of this proposed AD because RRD developed new P/N silver-free nuts, which, if installed with a new HP compressor stages 1 to 6 rotor disc assembly, would correct the unsafe condition.

We disagree with identifying specific HP compressor stages 1 to 6 rotor disc assemblies because this proposed AD applies to all HP compressor stages 1 to 6 rotor disc assemblies that have had silver-plated nuts installed. We revised the Applicability paragraph to clarify that this proposed AD applies to all HP compressor stages 1 to 6 rotor disc assemblies that were installed using nuts, P/N AS44862 or P/N AS64367.

Request To Clarify Parts Eligible for Installation

SWA requested that we clarify paragraph (f) of AD 2012–26–14. The commenter stated that it is unclear if reinstalling disc assemblies having fewer cycles since new (CSN) than that required by paragraph (e) of AD 2012–26–14, is acceptable.

We agree. The intent of AD 2012–26–14 is to allow operation of the disc assembly up to the CSN specified in paragraph (e) of AD 2012–26–14. It is acceptable to reinstall disc assemblies that have fewer CSN than specified in paragraph (e) of AD 2012–26–14. Therefore, we removed the terminating action paragraph from this proposed AD.

Conclusion

We reviewed the relevant data and considered the comments received.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would retain certain requirements of AD 2012–26–14. This proposed AD would change the Applicability paragraph to specify the P/N nuts associated with reduced life and would also change paragraph (f) by removing language concerning the terminating action. This AD requires removal from service of certain HP compressor stages 1 to 6 rotor disc assemblies before exceeding certain thresholds.

Costs of Compliance

We estimate that this proposed AD would affect about 255 engines installed on airplanes of U.S. registry. We also estimate that it would take about 20 hours per engine to comply with this proposed AD. The average labor rate is $85 per hour. Prorated parts life will cost about $13,500 per engine. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $3,876,000.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This proposed regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2012–26–14, Amendment 39–17309 (78 FR 2195, January 10, 2013), and adding the following new AD:

Rolls-Royce Deutschland Ltd & Co KG: Docket No. FAA–2012–1202; Directorate Identifier 2012–NE–38–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by January 21, 2014.

(b) Affected ADs

This AD supersedes AD 2012–26–14, Amendment 39–17309 (78 FR 2195, January 10, 2013).

(c) Applicability

This AD applies to all Rolls-Royce Deutschland Ltd & Co KG (RRD) BR700–715A1–30, BR700–715B1–30, and BR700–715C1–30 turbofan engines with high-pressure (HP) compressor stages 1 to 6 rotor disc assemblies that were ever installed using nuts, part number (P/N) AS44862 or P/N AS64367.

(d) Unsafe Condition

This AD was prompted by a report of silver chloride-induced stress corrosion cracking of the HP compressor stages 1 to 6 rotor disc assembly. We are issuing this AD to prevent failure of the HP compressor stages 1 to 6 rotor disc assembly, which could lead to an uncontained engine failure and damage to the airplane.

(e) Compliance

Comply with this AD within the compliance times specified, unless already done.

(1) For BR700–715A1–30 turbofan engines operated under the Hawaiian Flight Mission only, remove the HP compressor stages 1 to 6 rotor disc assembly from service before exceeding 16,000 flight cycles since new (CSN) or before further flight after the effective date of this AD, whichever occurs later.

(2) For BR700–715A1–30, BR700–715B1–30, and BR700–715C1–30 turbofan engines (all flight missions except Hawaiian Flight Mission), remove the HP compressor stages 1 to 6 rotor disc assembly from service before

exceeding 14,000 flight CSN or before further flight after the effective date of this AD, whichever occurs later.

(f) Prohibition Statement

After the effective date of this AD, do not install an HP compressor stages 1 to 6 rotor disk assembly into an engine, or an engine with an HP compressor stage 1 to 6 rotor disk assembly onto an aircraft, if the HP compressor stages 1 to 6 rotor disk assembly has ever been operated with nuts, P/N AS44862 or P/N AS64367, and has more CSN than specified in the applicable portion of the compliance section of this AD.

(g) Definition

For the purpose of this AD, flight cycles is defined as the total flight CSN on the HP compressor stages 1 to 6 rotor disc assembly, without any pro-rated calculations applied for different flight missions.

(h) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19, to make your request.

(i) Related Information

(1) For more information about this AD, contact Robert Morlath, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238 7154; fax: 781–238 7199; email: *robert.c.morlath@faa.gov*.

(2) Refer to MCAI European Aviation Safety Agency AD 2012–0230, dated October 30, 2012. You may examine this MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2012-1202-0003*.

(3) For service information identified in this AD, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, Dahlewitz, 15827 Blankenfelde-Mahlow, Germany; phone: 49 0 33–7086–1200; fax: 49 0 33–7086–1212.

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on November 8, 2013.

Colleen M. D'Alessandro,

Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2013–27633 Filed 11–18–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0966; Directorate Identifier 2013–CE–040–AD]

RIN 2120–AA64

Airworthiness Directives; Rockwell Collins, Inc. Transponders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Rockwell Collins TPR–720 and TPR–900 Mode select (S) transponders that are installed on airplanes. This proposed AD was prompted by the identification that the TPR–720 and TPR–900 Mode S transponders respond intermittently to Mode S interrogations from both ground-based and traffic collision avoidance system (TCAS-) equipped airplanes. This proposed AD would require testing and calibration of the alignment of the transponders. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by January 3, 2014.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Rockwell Collins, Inc., Collins Aviation Services, 350 Collins Road NE., M/S 153–250, Cedar Rapids, IA 52498–0001; telephone: 888–265–5467 (U.S.) or 319–265–5467; fax: 319–295–4941 (outside U.S.); email: techmanuals@rockwellcollins.com; Internet: *http://www.rockwellcollins.com/Services_and_Support/Publications.aspx.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Roger A. Souter, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: 316–946–4134; facsimile: 316–946–4107; email address: *roger.souter@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0966; Directorate Identifier 2013–CE–040–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

FAA surveillance and testing of Mode S transponders, associated with an upcoming change to the National Airspace System (NAS) ground-based system software, exposed a deficiency in the capability of the Rockwell Collins TPR–720 and TPR–900 series transponders to properly respond to Mode S interrogations from both ground-based radars and TCAS-equipped airplanes.

FAA and Rockwell Collins, Inc. investigated the deficiency with the transponders and determined that age and lack of depot-level maintenance may cause a shift in the sync phase reversal tolerance causing intermittent replies to the Mode S and TCAS II interrogations. The transponder receiver

misalignment requires calibration to correct the problem.

This unsafe condition, if not corrected, could result in possible misalignment issues with the transponders that could lead to increased pilot and air traffic controller workload as well as reduced separation of airplanes.

Relevant Service Information

Rockwell Collins, Inc. issued Service Information Letter 13–1, 523–0821603–101000, Revision No. 1, dated October 24, 2013. The service letter describes procedures for testing the transponders for proper alignment.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require testing and calibration of the alignment of the TPR–720 and TPR–900 Mode S transponders.

Costs of Compliance

We estimate that this proposed AD affects 4,000 products that are installed on airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Test and calibration of the transponders	4 × $85 per hour = $340	Not applicable	$340	$1,360,000

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds

necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Rockwell Collins, Inc.: Docket No. FAA–2013–0966; Directorate Identifier 2013–CE–040–AD.

(a) Comments Due Date

We must receive comments by January 3, 2014.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to the following Rockwell Collins, Inc. Mode S transponders that are installed on but not limited to the airplanes listed in paragraphs (c)(2)(i) and (c)(2)(ii) of this AD:

(i) TPR–720: CPN 622–7878–001, 622–7878–020, 622–7878–120, 622–7878–200, 622–7878–201, 622–7878–301, 622–7878–440, 622–7878–460, 622–7878–480, 622–7878–901; and

(ii) TPR–900: CPN 822–0336–001, 822–0336–020, 822–0336–220, 822–0336–440, 822–0336–460, 822–0336–480, 822–0336–902.

(2) The products listed in paragraphs (c)(1)(i) and (c)(1)(ii) of this AD may be installed on but not limited to the following airplanes, certificated in any category:

(i) Airbus Models A319, A320, A330, A340; and

(ii) Boeing Models B777, B747, MD–80, and DC–9.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by the identification that the TPR–720 and TPR–900 Mode S transponders respond intermittently to Mode S interrogations from both ground-based and traffic collision avoidance system equipped airplanes. We are issuing this AD to correct possible misalignment issues with the transponders that could result in increased pilot and air traffic controller workload as well as reduced separation of airplanes.

(f) Compliance

Comply with this AD within the compliance times specified in paragraph (g) of this AD, unless already done.

(g) Test and Calibration

Within the next 2 years after the effective date of this AD and repetitively thereafter at intervals not to exceed every 4 years, send the TPR–720 and TPR–900 Mode S transponders to a certified repair facility for test and calibration to assure proper alignment following Rockwell Collins, Inc. Service Information Letter 13–1, 523–0821603–101000, Revision No. 1, dated October 24, 2013.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if

requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (i)(1) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(i) Related Information

(1) For more information about this AD, contact Roger A. Souter, FAA, Wichita ACO, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: 316–946–4134; facsimile: 316–946–4107; email address: *roger.souter@faa.gov.*

(2) For service information identified in this AD, contact Rockwell Collins, Inc., Collins Aviation Services, 350 Collins Road NE., M/S 153–250, Cedar Rapids, IA 52498–0001; telephone: 888–265–5467 (U.S.) or 319–265–5467; fax: 319–295–4941 (outside U.S.); email: techmanuals@rockwellcollins.com; Internet: *http://www.rockwellcollins.com/Services_and_Support/Publications.aspx.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on November 11, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–27640 Filed 11–18–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0962; Directorate Identifier 2013–CE–028–AD]

RIN 2120–AA64

Airworthiness Directives; DORNIER LUFTFAHRT GmbH Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all DORNIER LUFTFAHRT GmbH Model 228–212 airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as main landing gear axle failure caused by initial fatigue cracking and small pre-damage by corrosion. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by January 3, 2014.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact RUAG Aerospace Services GmbH, Dornier 228 Customer Support, P.O. Box 1253, 82231 Wessling, Germany; telephone: +49–(0)8153–30–2280; fax: +49–(0)8153–30–3030. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0962; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4123; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0962; Directorate Identifier 2013–CE–028–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://regulations.gov* in Docket No. FAA–2013–0962, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No.: 2013–0209, dated September 10, 2013 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> An event of a main landing gear (MLG) axle break during touchdown has been reported. The results of the subsequent technical investigation indicated that improper restoration of corrosion protection was the likely cause of the initial fatigue cracking.
>
> This condition, if not detected and corrected, could lead to failure of the main landing gear axle, possibly resulting in a runway excursion with consequent damage to the aeroplane and injury to the occupants.
>
> To address this potential unsafe condition, RUAG Aerospace Services GmbH issued Service Bulletin (SB) SB–228–300, Rev. 1.
>
> For the reason described above, this AD requires a one-time inspection of the MLG axle and, depending on findings, accomplishment of applicable corrective actions.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0962.

Relevant Service Information

RUAG Aerospace Services GmbH has issued Dornier 228 Service Bulletin No. SB–228–300, Revision 1, dated April 25, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD would affect 2 products of U.S. registry. We also estimate that it would take about 160 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $27,200, or $13,600 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This proposed regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

Dornier Luftfahrt GmbH: Docket No. FAA–2013–0962; Directorate Identifier 2013–CE–028–AD.

(a) Comments Due Date

We must receive comments by January 3, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to DORNIER LUFTFAHRT GmbH 228–212 airplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 32: Landing Gear.

(e) Reason

This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. This AD was prompted by a report of a main landing gear axle failure caused by initial fatigue cracking and detection of small pre-damage by corrosion. We are issuing this AD to detect and correct possible corrosion and cracking of the MLG axle, which could lead to failure of the MLG axle resulting in a runway excursion with consequent damage to the airplane and injury to the occupants.

(f) Actions and Compliance

Unless already done, do the actions in paragraphs (f)(1) through (f)(2) of this AD:

(1) Inspect the MLG axle following the Accomplishment Instructions in RUAG Aerospace Services GmbH Dornier 228 Service Bulletin No. SB–228–300, Revision 1, dated April 25, 2013, at the time specified in paragraphs (f)(1)(i) or (f)(1)(ii) of this AD.

(i) *If, as of the effective date of this AD, the main landing gear (MLG) has 6,000 or more hours time-in-service (TIS) since new or is more than 10 years old:* Within the next 400 hours TIS after the effective date of this AD or within the next 6 months after the effective date of this AD, whichever occurs first.

(ii) *If, as of the effective date of this AD, the MLG has less than 6,000 hours TIS since new or is between 5 to 10 years old:* Before or upon accumulating 6,400 hours TIS or within 6 months after the effective date of this AD, whichever occurs first.

(2) If, during the inspections required in paragraph (f)(1) of this AD, any discrepancies are found outside the limits as specified in RUAG Aerospace Services GmbH Dornier 228 Service Bulletin No. SB–228–300, Revision 1, dated April 25, 2013, before further flight, make all necessary corrective actions following the Accomplishment Instructions in RUAG Aerospace Services GmbH Dornier 228 Service Bulletin No. SB–228–300, Revision 1, dated April 25, 2013.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4123; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection

of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2013–0209, dated September 10, 2013, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0962. For service information related to this AD, contact RUAG Aerospace Services GmbH, Dornier 228 Customer Support, P.O. Box 1253, 82231 Wessling, Germany; telephone: +49–(0)8153–30–2280; fax: +49–(0)8153–30–3030. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on November 5, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–27665 Filed 11–18–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

[Docket No. 130930854–3854–01]

RIN 0625–AA95

Modification of Regulations Regarding Time Limits for Submission of Information Pertaining to Requests for Sampling in Antidumping Duty Administrative Reviews

AGENCY: International Trade Administration, Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: The Department of Commerce (the Department) proposes to modify its regulations to establish time limits for the submission of requests for sampling, and comments on sampling in antidumping (AD) administrative reviews. The modifications to the time limits, if adopted, will more clearly prescribe the time for filing requests for sampling in AD administrative reviews, and the time for filing comments and rebuttal comments with respect to such requests. The modifications will provide sufficient opportunity for the Department to determine whether it will employ sampling in selecting respondents for individual examination when conducting administrative reviews in which a request for sampling is timely submitted.

DATES: To be assured of consideration, comments must be received no later than December 31, 2013.

ADDRESSES: All comments must be submitted through the Federal eRulemaking Portal at *http://www.regulations.gov,* Docket No. ITA–2013–0001, unless the commenter does not have access to the internet. Commenters who do not have access to the internet may submit the original and two copies of each set of comments by mail or hand delivery/courier. All comments should be addressed to Paul Piquado, Assistant Secretary for Enforcement and Compliance, formerly Import Administration, Room 1870, Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230. The comments should also be identified by Regulation Identifier Number (RIN) 0625–AA95.

The Department will consider all comments received before the close of the comment period. The Department will not accept comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. All comments responding to this notice will be a matter of public record and will be available for inspection at Enforcement and Compliance's Central Records Unit (Room 7046 of the Herbert C. Hoover Building) and online at *http://www.regulations.gov* and on the Department's Web site at *http://trade.gov/enforcement/.*

Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to IA ACCESS Helpdesk, at (202) 482–3150, email address: *iaaccess@trade.gov*.

FOR FURTHER INFORMATION CONTACT: Sapna Sharma at (202) 482–5285 or Shauna Biby at (202) 482–4267.

SUPPLEMENTARY INFORMATION: Under section 777A of the Tariff Act of 1930, as amended, the Department is directed to determine the individual weighted average dumping margin for each known exporter and producer of subject merchandise. For administrative reviews, the requirement pertains to all exporters and producers that have been requested for review. However, when the number of producers/exporters (''companies'') involved in an antidumping (AD) review is so large that the Department finds it impracticable to examine each company individually, section 777A(c)(2) allows the Department to limit its examination to: (A) a sample of exporters, producers, or types of products that is statistically valid based on the information available to the administering authority at the time of selection, or (B) exporters and producers accounting for the largest volume of subject merchandise from the exporting country that can reasonably be examined. The Department has, to date, generally used option (B) in proceedings in which limited examination has been necessary. One consequence of this is that companies under investigation or review with relatively small import volumes have generally been effectively excluded from individual examination. Over time, this creates a potential enforcement concern in AD administrative reviews because, as exporters accounting for smaller volumes of subject merchandise become aware that they are effectively excluded from individual examination by the Department's respondent selection methodology, they may decide to lower their prices as they recognize that their pricing behavior will not impact the AD rates assigned to them. Sampling such companies under section 777A(c)(2)(A) of the Tariff Act of 1930, as amended (the ''Act''), is one way to address this enforcement concern. Accordingly, the Department is refining its practice with respect to the methodology for respondent selection in certain AD proceedings, which the Department is publishing elsewhere in this issue of the **Federal Register**.

To facilitate sampling in administrative reviews generally, the Department is proposing to amend section 351.301 of its regulations to establish time limits for filing requests for sampling in administrative reviews, and time limits for comments and rebuttal comments to be filed by interested parties with respect to any such requests for sampling. Currently, 19 CFR 351.301 sets forth the time limits for submission of factual information, including, more recently, specific time limits, time limits for certain submissions such as responses to questionnaires, and time limits for certain allegations. The Department proposes to modify 19 CFR 351.301 so that it also includes a specific time limit for interested parties to submit a request that the Department use sampling in selecting exporters or producers for individual examination. These time limits should ensure that parties may request the Department to sample, while allowing the agency to complete its proceedings in accordance with statutory deadlines.

In particular, the proposed rule will require a domestic interested party under 19 U.S.C. section 1677(9)(C), (D), (E), or (F), or an interested party under 19 U.S.C. section 1677(9)(A) that is subject to the administrative review, to file its request for the Department to conduct sampling under 19 U.S.C. section 1677f–1(c)(2)(A), along with its comments on data from Customs and Border Protection (CBP), within seven (7) days after the Department releases the CBP data to interested parties, unless otherwise specified. The rule proposes that the submission include: (1) A request that the Department conduct sampling; and (2) factual information and comments on whether this factual information provides a reasonable basis to believe or suspect that the average export prices and/or dumping margins for the largest exporters differ from such information that would be associated with the remaining exporters. Under the proposed rule, if an interested party were to submit a request for the Department to conduct sampling, all other interested parties will then have a ten-day comment period and a five-day rebuttal period to comment on the sampling request.

The proposed rule is intended to establish a time limit for sampling requests in administrative reviews which would provide the Department with sufficient time to conduct the sampling and complete the administrative review under its statutory deadlines. In addition, the rule is intended to provide parties with sufficient time to examine the information related to sampling and provide comment to the Department that would in turn allow the Department to make an informed decision on whether to use sampling in any particular administrative review.

Classification

Executive Order 12866

This proposed rule has been determined to be not significant for purposes Executive Order 12866.

Initial Regulatory Flexibility Analysis (IRFA)

Pursuant to Section 603 of the Regulatory Flexibility Act, the Department has prepared the following IRFA to analyze the potential impact that this proposed rule, if adopted, would have on small entities.

Description of the Reasons Why Action Is Being Considered

The policy reasons for issuing this proposed rule are discussed in the preamble of this document, and not repeated here.

Statement of the Objectives of, and Legal Basis for, the Proposed Rule; Identification of All Relevant Federal Rules Which May Duplicate, Overlap, or Conflict With the Proposed Rule

This proposed rule is intended to alter the Enforcement and Compliance's regulations for AD proceedings; specifically, to set forth deadlines for submitting requests for sampling in AD administrative reviews pursuant to 19 U.S.C. section 1677f–1(c)(2)(A), and comments and rebuttal comments pertaining to such requests for sampling.

The legal basis for this rule is 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.;* and 19 U.S.C. 3538. No other Federal rules duplicate, overlap, or conflict with this proposed rule.

Number and Description of Small Entities Regulated by the Proposed Action

The proposed rules will apply to all persons submitting a request for sampling to the Department in AD administrative reviews. This could include exporters and producers of merchandise subject to AD proceedings and their affiliates, importers of such merchandise, and domestic producers of like products.

Exporters and producers of subject merchandise are rarely U.S. companies. Some producers and exporters of subject merchandise do have U.S. affiliates, some of which may be considered small entities under the appropriate Small Business Administration (SBA) small business size standard. The Department is not able to estimate the number of exporters and producer domestic affiliates that may be considered small entities, but anticipates, based on its experience in these proceedings, that the number will not be substantial.

Importers may be U.S. or foreign companies, and some of these entities may be considered small entities under the appropriate SBA small business size standard. The Department does not anticipate that the proposed rules will impact a substantial number of small importers because importers of subject merchandise who are not also producers and exporters (or their affiliates) rarely submit requests for administrative review and rarely submit factual information in the course of the Department's AD proceedings, and those that do tend to be larger entities.

Some domestic producers of like products may be considered small entities under the appropriate SBA small business size standard. Although it is unable to estimate the number of producers that may be considered small entities, the Department does not anticipate that the number affected by the proposed rule will be substantial. Frequently, domestic producers that bring a petition account for a large amount of the domestic production within an industry, so it is unlikely that these domestic producers will be small entities.

In sum, while recognizing that exporter and producer affiliates, importers, and domestic producers that submit information in AD proceedings will likely include some small entities, the Department, based on its experience with these proceedings and the participating parties, does not anticipate that the proposed rule would impact a substantial number of small entities.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule

The proposed rule will establish a time limit for interested parties to request that the Department conduct sampling in AD administrative reviews pursuant to 19 U.S.C. section 1677f–1(c)(2)(A). In particular, the proposed rule will require a domestic interested party under 19 U.S.C. section 1677(9)(C), (D), (E), or (F), or an interested party under 19 U.S.C. section 1677(9)(A) that is subject to the administrative review, to file its request for the Department to conduct sampling under 19 U.S.C. section 1677f–1(c)(2)(A), along with its comments on data from Customs and Border Protection (CBP), within seven (7) days after the Department releases the CBP data to interested parties. This will not amount to a significant burden as the submitter will have to make a submission requesting that the Department conduct a review based upon sampling whenever it wishes that the Department conduct sampling in the context of its AD administrative reviews.

Description of Any Significant Alternatives to the Proposed Rule That Accomplish the Stated Objectives of Applicable Statutes and That Minimize Any Significant Economic Impact of the Proposed Rule on Small Entities

The Department analyzed two alternatives to this proposed action. The first alternative, the preferred alternative, would establish time limits for the submission of requests for sampling. Under this preferred alternative, parties would incur no economic impact because the proposed provisions are purely administrative in

nature. This proposed rule provides parties with guidance on the timing and process by which to request sampling in the agency's proceedings.

The second alternative, the ''no action'' alternative, would set forth a proposed methodology for sampling in AD and CVD proceedings, without providing regulated parties with any guidance on the timing and process by which to request sampling in the agency's proceedings. This alternative would either create no economic impact, or slightly negative impacts to the regulated community due to the increased confusion generated as a result of the lack of guidance and process for requesting sampling. Although this alternative was considered, it was not selected because it does not serve the Department's objectives of creating certainty and clarity for participants in AD and CVD proceedings.

Paperwork Reduction Act

This rule does not require a collection of information for purposes of the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501 *et seq.*).

List of Subjects in 19 CFR Part 351

Administrative practice and procedure, Antidumping, Business and industry, Cheese, Confidential business information, Countervailing duties, Freedom of information, Investigations, Reporting and recordkeeping requirements.

Dated: November 6, 2013.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

For the reasons stated, 19 CFR part 351 is proposed to be amended as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

■ 1. The authority citation for 19 CFR part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.;* and 19 U.S.C. 3538.

■ 2. In § 351.301, add new paragraph (d) to read as follows:

§ 351.301 Time limits for submission of factual information.

* * * * *

(d) *Time limits for filing request for sampling in antidumping duty administrative reviews.*

(1) For antidumping duty administrative reviews, all submissions from parties to the proceeding wishing to request that the Department conduct sampling in selecting respondents for individual examination under section 777A(c)(2)(A) of the Act are normally due no later than 7 days after the Department releases to interested parties data from Customs and Border Protection pertaining to entries of merchandise subject to the review. The request for the Department to use sampling in the review must include the following information:

(i) A request that the Department conduct sampling with respect to the exporters subject to the review; and

(ii) Factual information and comment upon whether the factual information presented provides a reasonable basis to believe or suspect that the average export prices and/or dumping margins for the largest exporters differ from such information that would be associated with the remaining exporters subject to the review.

(2) Interested parties wishing to comment on the request for sampling must submit comments within 10 days from the date of receipt of the request for sampling.

(3) Interested parties wishing to submit rebuttal comments addressing comments submitted under paragraph (d)(2) of this section must submit such comments within 5 days from the due date for submitting comments in paragraph (d)(2).

[FR Doc. 2013–27442 Filed 11–18–13; 8:45 am]

BILLING CODE 3510–DS–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404

[Docket No. SSA–2010–0055]

RIN 0960–AF88

Revised Medical Criteria for Evaluating Hematological Disorders

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to revise the criteria in the Listing of Impairments (listings) that we use to evaluate cases involving hematological disorders in adults and children under titles II and XVI of the Social Security Act (Act). The proposed revisions reflect advances in medical knowledge, our adjudicative experience, and information we received from medical experts and the public.

DATES: To ensure that your comments are considered, we must receive them no later than January 21, 2014.

ADDRESSES: You may submit comments by one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2010–0055 so that we may associate your comments with the correct regulation.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as your Social Security number or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the Internet. Please visit the Federal eRulemaking portal at *http://www.regulations.gov*. Use the *Search* function to find docket number SSA–2010–0055. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to a week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966–2830.

3. *Mail:* Address your comments to the Office of Regulations, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at *http://www.regulations.gov,* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Cheryl A. Williams, Office of Medical Listings Improvement, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–1020. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION:

What revisions are we proposing?

We propose to:

- Revise and expand the introductory text to the hematological disorders body system for both adults (section 7.00) and children (section 107.00);
- Revise and reorganize the listings in this body system to update them and to make the adult and childhood rules more consistent; and
- Add criteria to the adult rules for establishing disability under the listings

based on functional limitations associated with hematological disorders.

Why are we proposing to make these changes?

We last issued final rules making comprehensive revisions to the hematological disorders listings on December 6, 1985.[1] Since then, we have generally only extended the effective date of the rules.[2] In the preamble to the 1985 rules, we stated that we would carefully monitor these listings to ensure that they continue to meet program purposes, and that we would revise them if warranted. We are now proposing to update the medical criteria in the current listings and provide more information about how we evaluate hematological disorders. For example:

- We propose to update current listing 7.08, which provides transfusion criteria for spontaneous hemorrhage (bleeding) in hemophilia. It does not reflect the current standard of care, because physicians now use other treatments for this type of bleeding.
- We propose to update current listing 7.17, which addresses bone marrow and stem cell transplantation only for aplastic anemias. Other hematological disorders, such as sickle cell disease, may now be treated with bone marrow or stem cell transplantation.

We are also proposing changes to the current listings to reflect the considerable adjudicative experience we have gained since we issued the 1985 rules. Some of these proposals also reflect information we received at outreach conferences from people who have hematological disorders, their family members, physicians who treat hematological disorders, and advocates who represent people who have these disorders. These proposals also take into consideration recommendations we received in public comments in response to a previous notice of proposed rulemaking (NPRM), which we explain in more detail below.

How did we develop these proposed rules?

On November 27, 2001, we published an NPRM proposing revisions to both the listings for hematological disorders and the listings for malignant neoplastic diseases.[3] We received public comments raising significant issues about the proposed listings for some of the hematological disorders. To obtain more information, on April 18, 2002, we published a notice providing an additional public comment period.[4] We also held meetings on April 8, 2002, April 24, 2002, and August 26, 2002, with medical professionals and representatives of advocacy and legal-services groups. During these meetings, we asked the participants for information about the issues.[5]

Based on the information we received from these activities, we published a notice on November 15, 2004, withdrawing the 2001 proposed rules for hematological disorders.[6] We later hosted a policy conference on sickle cell disease and hemophilia in Boston, MA, on November 18, 2004.[7] At this conference, we heard comments and suggestions for updating and revising the current rules for sickle cell disease and hemophilia from people who have these disorders, their family members, and physicians, advocates, and other professionals. In developing this NPRM, we considered the information we obtained at this conference, our earlier meetings, and the comments we received on the 2001 NPRM.[8]

What general changes are we proposing?

We propose to use only broad categories of hematological disorders in the listings instead of the mixture of specific hematological disorders and broad categories of hematological disorders that are in the current listings. We believe that it would be better to use only broad categories throughout this body system so that we can include more types of hematological disorders. We also propose to remove some of the current listings and revise the criteria of others.

The following chart shows the headings of the current listings for evaluating hematological disorders in adults and the name of the proposed listing, or the proposed listing under which we would evaluate the disorder that is currently listed:

Current listings *	Proposed listings
7.02 *Chronic anemia (hematocrit persisting at 30 percent or less due to any cause).*	Evaluate under the appropriate listing for the underlying hematological disorder or under 7.18.
7.05 *Sickle cell disease, or one of its variants*	7.05 *Hemolytic anemias.*
7.06 *Chronic thrombocytopenia (due to any cause)*	Evaluate under 7.08.
7.07 *Hereditary telangiectasia*	Evaluate under the body system where the bleeding occurs.
7.08 *Coagulation defects (hemophilia or a similar disorder)*	7.08 *Disorders of hemostasis.*
7.09 *Polycythemia vera (with erythrocytosis, splenomegaly, and leukocytosis or thrombocytosis).*	Removed.
7.10 *Myelofibrosis (myeloproliferative syndrome)*	7.10 *Disorders of bone marrow failure.*
7.15 *Chronic granulocytopenia (due to any cause)*	Evaluate under 7.10.
7.17 *Aplastic anemias with bone marrow or stem cell transplantation*	7.17 *Hematological disorders treated by bone marrow or stem cell transplantation.*
	7.18 *Repeated complications of hematological disorders.*

* The listings in this body system are not numbered consecutively. This chart contains the only listings in this body system.

We also propose to replace the current introductory text with updated and expanded guidance that reflects the proposed listings. The following chart shows the headings of the current and proposed sections of the introductory text:

[1] (50 FR 50068)

[2] We published some revisions to the hematological body system on April 24, 2002, and November 15, 2004. See 67 FR 20018 and 69 FR 67017 (corrected at 70 FR 15227). These revisions were not comprehensive; they addressed only specific listings. The current listings will no longer be effective as of July 2, 2012, unless we extend them or revise and issue them again. See 75 FR 33166.

[3] 66 FR 59306.

[4] 67 FR 19138.

[5] You can read the notes from these meetings at *http://www.regulations.gov/#!docketDetail;dct=FR%252BPR%252BN%252BO%252BSR;rpp=10;po=0;D=SSA-2006-0113.*

[6] 69 FR 67039.

[7] You can read the transcript of the November 18, 2004, policy conference at *http://www.regulations.gov/#!docketDetail;dct=FR%252BPR%252BN%252BO%252BSR;rpp=10;po=0;D=SSA-2006-0113.*

[8] You can view the comments we received on the 2001 NPRM by going to *http://www.regulations.gov/#!docketDetail;dct=FR%252BPR%252BN%252BO%252BSR;rpp=10;po=0;D=SSA-2006-0113.*

Current introductory text	Proposed introductory text
7.00A *Impairment caused by anemia*	7.00A *What hematological disorders do we evaluate under these listings?*
7.00B *Chronicity is indicated by*	7.00B *What evidence do we need to document that you have a hematological disorder?*
7.00C *Sickle cell disease*	7.00C *What are hemolytic anemias, and how do we evaluate them under 7.05?*
7.00D *Coagulation defects*	7.00D *What are disorders of hemostasis, and how do we evaluate them under 7.08?*
	7.00E *What are disorders of bone marrow failure, and how do we evaluate them under 7.10?*
	7.00F *How do we evaluate bone marrow or stem cell transplantation under 7.17?*
	7.00G *How do we use the functional criteria in 7.18?*
	7.00H *How do we consider your symptoms, including your pain, severe fatigue, and malaise?*
	7.00I *How do we evaluate episodic events in hematological disorders?*
	7.00J. *How do we evaluate hematological disorders that do not meet one of these listings?*

What specific changes are we proposing to make in the introductory text to the listings for evaluating hematological disorders in adults?

The following is a detailed explanation of the proposed changes to the introductory text:

Proposed section 7.00A—What hematological disorders do we evaluate under these listings?

In this new section, we explain which hematological disorders we evaluate under these listings and which we evaluate under the listings in other body systems.

Proposed section 7.00B—What evidence do we need to document that you have a hematological disorder?

In this new section, we explain the evidence we need to establish the existence of a hematological disorder. In proposed sections 7.00B1 and B2, we provide two methods for establishing the existence of the disorder when we have a copy of definitive laboratory test results. In proposed section 7.00B3, we provide an additional method for establishing the existence of the disorder when we do not have a copy of definitive laboratory test results.

In proposed section 7.00B1, we explain that a laboratory report of a definitive test that establishes a hematological disorder, signed by a physician, is sufficient to document that you have a hematological disorder. As an alternative, we also explain in proposed section 7.00B2 that, if we have a copy of the laboratory report of a definitive test that establishes a hematological disorder, but a physician has not signed it, we also require a report from a physician confirming that the person has the hematological disorder. We need this statement because our rules require evidence from an ''acceptable medical source'' to establish the existence of a medically determinable impairment, and a physician is the only such source we can accept for hematological disorders.[9] We are proposing these changes only to clarify our current rules and are not proposing that the physician needs to provide any more information to establish the existence of the disorder than we require under our current rules.

In proposed section 7.00B3, we explain how we can establish the existence of a hematological disorder when we do not have a copy of the laboratory report of a definitive test. Under section 7.00B3, we need a persuasive report from a physician that a positive diagnosis of the person's hematological disorder was confirmed by appropriate laboratory analysis or other diagnostic method(s). We also explain that to be persuasive, the report must state that the person has had the appropriate definitive laboratory test or tests for diagnosing the disorder and provide the results, or explain how the diagnosis was established by other diagnostic techniques consistent with the prevailing state of medical knowledge and clinical practice.

We propose to remove the information in current section 7.00B because it primarily discusses medically acceptable imaging techniques. These techniques would apply to the proposed listings primarily to establish the presence of certain complications of hematological disorders, such as blood clots. There are many other types of laboratory tests and clinical findings we may need to establish a hematological disorder and the nature of any complications. We do not believe it would be practical or necessary to include them all in the introductory text of the proposed listings. We propose to remove, rather than expand, the limited guidance in current section 7.00B.

Current section 7.00B also includes two sentences that explain how we establish ''chronicity.'' We would no longer need this rule because we do not use the term ''chronicity'' in any of the proposed listings. Instead, we provide specific criteria in each proposed listing for which we need evidence of chronicity. For example, in some of the proposed listings we require a certain number of events (such as hospitalizations) directly associated with the person's hematological disorder occurring at least 30 days apart and within a 12-month period.

In proposed section 7.00B4, we explain that we will make every reasonable effort to obtain the results of appropriate laboratory testing. We also explain that we will not purchase tests of clotting factors, bone marrow aspirations, or bone marrow biopsies. We will not purchase these tests because obtaining, handling, or evaluating the blood or tissue samples may be too complex, invasive, or costly.

Proposed section 7.00C—What are hemolytic anemias, and how do we evaluate them under 7.05?

In this new section, we describe hemolytic anemias and provide examples of these disorders. We propose to evaluate all hemolytic anemias under listing 7.05 instead of listing only sickle cell disease or its variants.

In proposed section 7.00C2, we address a concern raised at our meetings on sickle cell disease: That some hospitalizations are for complications of sickle cell disease, and that our adjudicators should recognize and consider such hospitalizations when determining whether a person's impairment meets current listing 7.05B. Since we also have requirements for hospitalizations in the proposed listings, we propose to address this concern by providing examples of common complications of hemolytic anemias (including sickle cell disease) that could result in hospitalization. These examples include some of the complications that we term ''major visceral episodes'' in current section 7.00C. We also specify that the hospitalizations do not all have to be for the same complication, such as a painful (vaso-occlusive) crisis. The three hospitalizations we require in proposed

[9] We define the terms ''medically determinable impairment'' and ''acceptable medical source'' in §§ 404.1508, 404.1513, 416.908, and 416.913 of our regulations.

listing 7.05B may be for three different complications of a hemolytic anemia.

In proposed section 7.00C3, we explain that the hemoglobin measurements required in proposed listing 7.05C do not have to occur when the person is free of complications of his or her hemolytic anemia. The frequency of very low hemoglobin measurements required in the proposed listing provides a way for finding disability without considering the person's complications because it would establish a hemoglobin level associated with serious chronic anemia.

We propose a new listing 7.05D for transfusion-dependent beta thalassemia major. In proposed section 7.00C4, we define the term ''transfusion-dependent'' as it is widely used in the medical community to emphasize that transfusion dependency is necessary to sustain life. We exclude prophylactic red blood cell (RBC) transfusion for sickle cell disease because we do not consider this therapy to be of equal medical significance to transfusion-dependent thalassemia.

Proposed section 7.00D—What are disorders of hemostasis, and how do we evaluate them under 7.08?

In this new section, we propose to use a more inclusive term, ''disorders of hemostasis,'' to reflect the criteria in proposed listing 7.08. We provide examples of these disorders, which include coagulation defects.

We propose to remove the guidance in current section 7.00D about prophylactic therapy because this guidance would no longer be applicable in light of proposed listing 7.08. Prophylactic therapy for coagulation defects is usually self-administered and does not reflect the requirement in proposed listing 7.08 that the disorder result in hospitalization.

In proposed section 7.00D2, we provide examples of common complications of disorders of hemostasis that may result in hospitalization or contribute to functional limitations. We explain that surgery is a complication in disorders of hemostasis if it requires treatment with factor infusions or anticoagulant medication to control bleeding or coagulation in connection with the surgery.

Proposed section 7.00E—What are disorders of bone marrow failure, and how do we evaluate them under 7.10?

Proposed listing 7.10, Disorders of bone marrow failure, includes several hematological conditions that we now list separately: Myelofibrosis (current listing 7.10), granulocytopenia (current listing 7.15), and aplastic anemia (current listing 7.17). We name these conditions as examples of disorders of bone marrow failure to emphasize that we still include them in the proposed hematological disorders listings. In proposed section 7.00E2, we provide examples of common complications of disorders of bone marrow failure that may result in hospitalization or contribute to functional limitations. As we do for other hematological disorders that require hospitalizations, we specify in 7.00E2 that the hospitalizations in proposed listing 7.10A do not all have to be for the same complication. We also provide that we will consider other types of systemic infections that may result in hospitalizations. As we explain below in our summary of proposed listing 7.10A, we would include viral and fungal infections because they can have the same impact as bacterial infections required in current listing 7.10B.

Proposed section 7.00F—How do we evaluate stem cell or bone marrow transplantation under 7.17?

In this section, we explain that under proposed listing 7.17, we will consider a person to be disabled for 12 months from the date of bone marrow or stem cell transplantation, or we may consider a person to be disabled for a longer period if he or she has any serious post-transplantation complications, such as graft-versus-host (GVH) disease. The proposed rule is consistent with how we evaluate bone marrow and stem cell transplantation in other body systems.[10]

Proposed section 7.00G—How do we use the functional criteria in 7.18?

We are proposing new listing 7.18 to evaluate repeated complications of hematological disorders, including those complications listed in 7.05, 7.08, and 7.10 that do not have the requisite findings for those listings, or other complications. Under listing 7.18, the complications listed in 7.05, 7.08, and 7.10 that do not have the requisite findings for those listings, or the other complications the person has that are not contained in those specific listings, must result in ''significant, documented symptoms or signs.'' The person must also have a marked limitation in at least one of three broad areas of functioning. We explain each part of this listing in detail in proposed section 7.00G. We modeled listing 7.18 after a number of listings in the immune disorders body system (14.00), and we based the rules in proposed section 7.00G on the rules in section 14.00I of the introductory text of the immune disorders body system.

Proposed listing 7.18 requires a marked limitation of activities of daily living; a marked limitation in maintaining social functioning; or a marked limitation in completing tasks in a timely manner due to deficiencies in concentration, persistence, or pace. In proposed section 7.00G4, we use essentially the same definition of ''marked'' as we use in section 14.00I5, but we are not including the description of ''marked'' as ''more than moderate but less than extreme.'' Instead, we would use an explanation based on the language describing the rating scale for mental disorders in current §§ 404.1520a(c)(4) and 416.920a(c)(4). This rating scale describes ''marked'' as the fourth point on a five-point rating scale. We explain that we would not require our adjudicators to use such a scale, but that ''marked'' would be the fourth point on a scale of ''no limitation, mild limitation, moderate limitation, marked limitation, and extreme limitation.'' With this guideline, it would be unnecessary to state that ''marked'' falls between ''moderate'' and ''extreme.'' In proposed sections 7.00G5, 7.00G6, and 7.00G7, we explain what we mean by ''activities of daily living,'' ''social functioning,'' and ''completing tasks in a timely manner.'' We based these proposed sections on current sections 14.00I6, 14.00I7, and 14.00I8 in our immune system listings.

Proposed section 7.00H—How do we consider your symptoms, including your pain severe fatigue, and malaise?

In this section, we explain how we consider the effects of the symptoms of hematological disorders on a person's ability to function. Except for a reference to section 7.00 instead of section 14.00, this paragraph would be identical to section 14.00H in our immune system disorders body system.

Proposed section 7.00I—How do we evaluate episodic events in hematological disorders?

Several of our current hematological listings include a requirement for events (pain crises, transfusions, or infections) within the 5 months or 12 months before we adjudicate a claim. We propose similar requirements in several of the proposed hematological listings, but also propose several changes. In proposed section 7.00I, we would explain that under listings 7.05, 7.08, and 7.10A, we require a specific number of events within a consecutive 12-month period and that when we use such criteria, the 12-month period must occur within the period we are considering in

[10] See, for example, section 13.00L4 in the malignant neoplastic diseases body system.

connection with your application or continuing disability review. Our current rules require that the events must take place in a period immediately before we adjudicate a case. This proposed change would be consistent with how we evaluate episodic events in other body systems.[11] We believe this change also is both more logical and fair, and that it would address many adjudicator questions we have received over the years. In some cases, for example, we must determine whether a person was disabled in a period that ended before we adjudicated the claim.

How are we proposing to revise the criteria in the listings for evaluating hematological disorders in adults?

We propose to remove several current hematological listings:

- Current listing 7.02, for chronic anemia. We would evaluate anemia that results from an underlying hematological disorder under the appropriate proposed listing for the disorder or under the functional criteria in proposed listing 7.18. We would also remove the guidance in current section 7.00A for evaluating impairments caused by anemia ''according to the ability of the person to adjust to the reduced oxygen[-]carrying capacity of the blood.'' This guidance does not consider that a person who can adjust to his or her anemia may have other serious complications that could be disabling. We provide examples of these other complications in proposed sections 7.00C, 7.00D, and 7.00E, the sections of the proposed introductory text that describe the major categories of hematological disorders in the proposed listings. As we have already mentioned, some proposed listings establish the presence of chronic anemia that meets the requirement of three hospitalizations within 12 months spaced 30 days apart, essentially replacing the ''chronicity'' requirement in current section 7.00B.
- Current listings 7.05D for sickle cell disease, 7.09 for polycythemia vera, and 7.10A for myelofibrosis with chronic anemia. These listings are reference listings. Reference listings are redundant because they are met by satisfying the criteria of other listings, and we are removing them from our listings as we update the body systems.[12]
- Current listing 7.06, for chronic thrombocytopenia. We would include thrombocytopenia under proposed new listing 7.08, ''Disorders of hemostasis.''
- Current listing 7.07 for hereditary telangiectasia. Hereditary telangiectasia is a disorder that may result in bleeding from defects in the blood vessels in various organs. We believe it is more appropriate to evaluate hereditary telangiectasia under the body system where this bleeding occurs, such as the digestive body system (for example, listing 5.02) or the neurological body system (for example, listing 11.04).
- Current listing 7.10C for myelofibrosis with intractable bone pain. We believe it is more appropriate to evaluate this impairment under the criteria for the affected body system.
- Current listing 7.15, for chronic granulocytopenia. We would include granulocytopenia under proposed new listing 7.10, ''Disorders of bone marrow failure.''

While incorporating the disorders from several of the foregoing listings into other proposed listings, we also propose either to revise the criteria in the current listing or replace it with new criteria. Two changes would be common to several listings that include criteria for episodic events (for example, painful crises or hospitalizations): We would require at least 30 days between these events to ensure that we are evaluating separate events, and we would require that these events occur within a relevant 12-month period, consistent with our rules in other body systems.

The following is a detailed explanation of the changes we are proposing to the hematological disorder listings for evaluating hematological disorders in adults that need further explanation.

Proposed Listing 7.05—Hemolytic Anemias

In addition to expanding the scope of current listing 7.05A, we propose to make the following changes:

We would add a requirement for the treatment of documented painful crises with parenteral (intravenous or intramuscular) narcotic medication. Physicians usually provide this treatment (in outpatient or inpatient settings) only for crises they cannot alleviate with initial treatment, such as oral narcotics or non-narcotic medications. We believe that the proposed requirement for parenteral narcotic medication will confirm the severity of the crisis and provide a more objective measure than the requirement in the current listing.

We would also require at least 6 painful crises treated with parenteral narcotic medication in a 12-month period, instead of the three in the 5-month period prior to adjudication in the current listing. We believe the need for parenteral narcotic medication on such a frequent basis is indicative of recurring severe pain that prevents a person from working for the required 12-month duration. We based the change in frequency of painful crises on our adjudicative experience and the prevailing state of medical knowledge and clinical practice. Although people who have painful crises less frequently than 6 times in a 12-month period may be limited in functioning, we believe they are not precluded from engaging in any gainful activity.

We would consider a person with hemolytic anemia who has less severe painful episodes or other complications that result in functional limitations under proposed listing 7.18, which we describe in detail below.

In addition, people who have severe painful episodes may have impairments that meet proposed listing 7.05B. Proposed listing 7.05B corresponds to current listing 7.05B in that it would include people who have three hospitalizations in a 12-month period because of their hemolytic anemia. We would revise the current listing as follows:

We explain that the hospitalization can be for any complication of hemolytic anemia, which, as we explain in proposed section 7.00C2, would include painful crises. We believe that three hospitalizations in a 12-month period establish hemolytic anemia of listing-level severity because complications of hemolytic anemia that require hospitalization are generally more serious and involve longer recovery periods than those treated solely in outpatient settings. We also specify in the introductory text that the three hospitalizations do not have to be for the same complication.

We would include criteria for hospitalizations similar to current listing 7.05B but specify that each hospitalization must last at least 48 hours. We believe a hospitalization period of at least 48 hours is indicative of a severe complication of hemolytic anemia, and would more clearly define our intent in the current rule for an ''extended hospitalization.'' We would include the hours the person spends in the emergency department immediately before hospital admission as part of his or her hospitalization. We would include these hours in the emergency department because the person is likely to be receiving the same intensity of care as he or she will receive in the hospital.

In proposed listing 7.05C, we would require hemoglobin measurements

[11] See, for example, section 4.00A3e in the cardiovascular system.

[12] Current listing 7.10A also cross-refers to current listing 7.02, which we are proposing to remove.

instead of the current requirement for hematocrit values. Hemoglobin is measured directly. Hematocrit values are calculated, and therefore they are less precise. We would accept the hemoglobin measurements required in proposed listing 7.05C regardless of whether the person was experiencing complications of his or her hemolytic anemia at the time of the measurements.

Current listing 7.05C requires a persistence of a hematocrit of 26 percent or less, which is comparable to a hemoglobin measurement of approximately 8.5 grams per deciliter (g/dL) or less. We believe that hematocrit or hemoglobin at these levels does not necessarily correlate with an inability to do any gainful activity. Instead, the proposed listing would require a hemoglobin measurement of 7.0 g/dL or less. We believe a hemoglobin measurement at this level provides a better description of a listing-level impairment because many people who have this finding will have related problems, such as an abnormal heartbeat, shortness of breath with mild exertion, and significant fatigue. We also believe that the frequency of the hemoglobin measurements in the proposed listing provides a way for finding a person to be disabled without having to consider the person's specific complications since it establishes a hemoglobin level associated with serious chronic anemia.

Even though we are proposing a specific laboratory finding for evaluating anemia in proposed listing 7.05C, we would also consider anemia under proposed new listing 7.18. Proposed listing 7.18 will allow us to make an individualized determination about disability for people whose impairments do not meet proposed listing 7.05.

Proposed Listing 7.08—Disorders of Hemostasis

This proposed listing corresponds to current listing 7.06, ''Chronic thrombocytopenia (due to any cause),'' and current listing 7.08, ''Coagulation defects (hemophilia or similar disorder).'' We would evaluate thrombocytopenia and coagulation defects under this proposed listing because they are both disorders of hemostasis. The proposed listing would also cover any other hypo- or hypercoagulation disorder.

We believe that the criterion in proposed 7.08 for complications requiring at least three hospitalizations within a 12-month period and occurring at least 30 days apart is a more accurate medical description of listing-level thrombocytopenia than the current requirements for platelet counts and spontaneous bleeding. Some people who have thrombocytopenia that satisfies the criteria in the current listing for platelet counts repeatedly below 40,000/mm^3 and one episode of spontaneous bleeding (current listing 7.06A) will have serious limitations in their functioning. Others, however, will not have limitations that prevent them from doing any gainful activity for at least 12 continuous months, the duration requirement in our definition of disability. Some people who have thrombocytopenia with the requisite platelet counts and who experience one episode of intracranial bleeding (current listing 7.06B) also do not have impairments that meet the 12-month duration requirement. Likewise, we believe that the episodes of bleeding we include in the other current listings for disorders of hemostasis, including bleeding episodes resulting from hemophilia, do not necessarily preclude a person from doing any gainful activity for at least 12 months.

The requirement for transfusions in current listing 7.08 is out of date. Instead of blood transfusions, physicians now use blood-clotting factor VIII, factor IX, or other factor components to treat uncontrolled bleeding in hemophilia. A person usually receives intensive treatment with factor in a hospital if he or she cannot control a bleed with factor through outpatient treatment or self-care. We believe that the requirement for hospitalization will confirm the severity of the bleeding episode and provide an objective measure. Similarly, the requirement for hospitalization would be an objective measure for other complications of disorders of hemostasis, such as thromboses (blood clots) that result from a hypercoagulation disorder.

We would use the criteria in proposed listing 7.18 to evaluate hemostasis disorders that do not meet the criteria of proposed listing 7.08 but that cause complications that affect a person's functioning. For example, proposed listing 7.18 would include some people who have joint deformity (arthropathy) from repeated bleeding into a joint. We may also use the criteria in the musculoskeletal listings to evaluate the effects of joint deformity.[13]

Proposed Listing 7.10—Disorders of Bone Marrow Failure

This proposed listing corresponds to current listings 7.10, ''Myelofibrosis (myeloproliferative syndrome),'' 7.15, ''Chronic granulocytopenia (due to any cause),'' and 7.17, ''Aplastic anemias.'' We would evaluate myelofibrosis, granulocytopenia, and aplastic anemias, as well as any other disorder of bone marrow failure, under the proposed listing. We would also evaluate aplastic anemias and other disorders of bone marrow failure treated with bone marrow or stem cell transplantation under proposed listing 7.17.

In proposed listing 7.10A, we would require three hospitalizations within a 12-month period (and occurring at least 30 days apart) for complications of a disorder of bone marrow failure (such as systemic infections). As we noted earlier in our explanation of proposed section 7.00E, in proposed 7.10A we would broaden the criterion in current listing 7.10B to include systemic viral and fungal infections. Systemic viral and fungal infections that must be treated in the hospital are as serious as systemic bacterial infections. People who have episodes of systemic infections that do not meet the requirement in proposed listing 7.10A may qualify under proposed listing 7.18.

We propose to remove current listing 7.10C because intractable bone pain is rare in myelofibrosis. When a person has this symptom, we would be able to evaluate his or her impairment under proposed listing 7.18. We can also use an appropriate listing in the musculoskeletal body system, as we make clear in proposed section 7.00J1.

Proposed Listing 7.17—Hematological Disorders Treated by Bone Marrow or Stem Cell Transplantation

Current listing 7.17 is for aplastic anemias treated with bone marrow or stem cell transplantation. We would broaden this listing to include all hematological disorders treated with these transplantation procedures. We would consider the person disabled until ''at least'' 12 months from the date of transplantation. The phrase ''at least'' would provide our adjudicators with the flexibility to consider the person disabled for a period longer than 12 months from the date of transplantation if the evidence justifies it. After that period, we would evaluate any residual impairment(s) under the criteria for the affected body system.

Proposed Listing 7.18—Repeated Complications of Hematological Disorders

As we have already noted, we propose a new listing based on repeated complications of any hematological disorder together with functional limitations that result from the disorder. We modeled this proposed listing after several listings in our immune disorders

[13] See proposed section 7.00J1.

body system.[14] The proposed listing reflects symptoms, signs, and complications of hematological disorders. Like immune disorders, hematological disorders can be characterized by episodes of complications and symptoms that can significantly affect functioning. For this reason, we believe it is appropriate to have a listing that includes functional limitations for hematological disorders like the listings in the immune disorders body system. We believe these functional criteria would help us more quickly and easily adjudicate some claims.

How are we proposing to change the introductory text and listings for evaluating hematological disorders in children?

With one exception, the proposed childhood introductory text and listings are the same as the proposed adult rules, apart from minor differences such as referring to children instead of adults. The reasons we gave earlier for changing or removing current criteria for adults also apply to the childhood criteria.

We are not proposing a listing for children like proposed listing 7.18 for adults. Instead, we would use our current childhood rules for evaluating functional equivalence to the listings.[15] These rules accomplish the same objective for children as proposed listing 7.18 would for adults.

What is our authority to make rules and set procedures for determining whether a person is disabled under the statutory definition?

Under the Act, we have full power and authority to make rules and regulations and to establish necessary and appropriate procedures to carry out such provisions.[16]

How long would these proposed rules be effective?

If we publish these proposed rules as final rules, they will remain in effect for five years after the date they become effective, unless we extend them or revise and reissue them.

Clarity of These Proposed Rules

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this NPRM, we invite your comments on how to make them easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rules clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?
- Do the rules contain technical language or jargon that is not clear?
- Would a different format make the rules easier to understand, (for example, grouping and order of sections, use of headings, paragraphing)?

When will we start to use these rules?

We will not use these rules until we evaluate public comments and publish final rules in the **Federal Register.** All final rules we issue include an effective date. We will continue to use our current rules until that date. If we publish final rules, we will include a summary of relevant comments we received, our responses to them, and an explanation of how we will apply the new rules.

Regulatory Procedures

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the requirements for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Thus, OMB reviewed them.

Regulatory Flexibility Act

We certify that these proposed rules would not have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

These proposed rules do not impose new or affect any existing reporting or recordkeeping requirements and are not subject to OMB clearance.

References

We consulted the following references when we developed these proposed rules:

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[14] See listings 14.02B, 14.03B, 14.04D, 14.05E, 14.06B, 14.07C, 14.08K, 14.09D, and 14.10B.

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[16] Sections 205(a), 702(a)(5), and 1631(d)(1).

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We included these references in the rulemaking record for these proposed rules and will make them available for inspection by interested persons who make arrangements with the contact person identified above.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; and 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: November 8, 2013.

Carolyn W. Colvin,

Acting Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend 20 CFR chapter III, part 404, subpart P as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

■ 1. The authority citation for subpart P of part 404 is revised to read as follows:

Authority: Secs. 202, 205(a)–(b), and (d)–(h), 216(i), 221(a), (i), and (j), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a)–(b) and (d)–h), 416(i), 421(a), (i), and (j), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

Appendix 1 to Subpart P of Part 404—[Amended]

■ 2. Amend appendix 1 to subpart P of part 404 by revising:
■ a. Item 8 of the introductory text before part A;
■ b. Section 7.00 of part A;
■ c. Section 13.00K2c(ii) of part A;
■ d. Second sentence of section 13.00K3 of part A; and
■ e. Section 107.00 of part B.

The revisions read as follows:

APPENDIX 1 TO SUBPART P OF PART 404—LISTING OF IMPAIRMENTS

* * * * *

8. Hematological Disorders (7.00 and 107.00): (*Date 5 years from the effective date of the final rules*).

* * * * *

Part A

* * * * *

7.00 HEMATOLOGICAL DISORDERS

A. *What hematological disorders do we evaluate under these listings?*

1. We evaluate non-malignant (non-cancerous) hematological disorders, such as hemolytic anemias (7.05), disorders of hemostasis (7.08), and disorders of bone marrow failure (7.10), which disrupt the normal development and function of white blood cells, red blood cells, platelets, and blood-clotting factors.

2. We evaluate malignant (cancerous) hematological disorders, such as lymphoma, leukemia, and multiple myeloma, under the appropriate listings in 13.00, except for lymphoma associated with human immunodeficiency virus (HIV) infection, which we evaluate under 14.08E.

B. *What evidence do we need to document that you have a hematological disorder?* We need the following evidence to document that you have a hematological disorder:

1. A laboratory report of a definitive test that establishes a hematological disorder, signed by a physician; or

2. A laboratory report of a definitive test that establishes a hematological disorder that is not signed by a physician *and* a report from a physician that states you have the disorder; or

3. When we do not have a laboratory report of a definitive test, a persuasive report from a physician that a positive diagnosis of your hematological disorder was confirmed by appropriate laboratory analysis or other diagnostic method(s). To be persuasive, this report must state that you had the appropriate definitive laboratory test or tests for diagnosing your disorder and provide the results, or explain how your diagnosis was established by other diagnostic method(s) consistent with the prevailing state of medical knowledge and clinical practice.

4. We will make every reasonable effort to obtain the results of appropriate laboratory testing you have had. We will not purchase complex, costly, or invasive tests, such as tests of clotting factors, bone marrow aspirations, or bone marrow biopsies.

C. *What are hemolytic anemias, and how do we evaluate them under 7.05?*

1. *Hemolytic anemias* include an array of disorders that result in premature destruction of red blood cells (RBCs). The diagnosis of hemolytic anemia is based on hemoglobin electrophoresis or analysis of the contents of the RBC (hemoglobin, enzymes) and the envelope (membrane) of the RBC. Sickle cell disease, thalassemia, and their variants are some examples of hemolytic anemias.

2. The hospitalizations in 7.05B do not all have to be for the same complication of the hemolytic anemia. They may be for three different complications of the disorder. Examples of complications of hemolytic anemia that may result in hospitalization include osteomyelitis, painful (vaso-occlusive) crisis, pulmonary infections or infarctions, acute chest syndrome, pulmonary hypertension, chronic heart failure, gallbladder disease, hepatic (liver) failure, renal (kidney) failure, nephrotic syndrome, aplastic crisis, and cerebrovascular accident (stroke).

3. For 7.05C, we do not require hemoglobin to be measured during a period in which you are free of pain or other symptoms of your disorder. We will accept hemoglobin measurements made while you are experiencing complications of your hemolytic anemia.

4. *Transfusion-dependent* in 7.05D refers to the most serious type of beta thalassemia major, in which the bone marrow cannot produce sufficient numbers of RBCs to maintain life. Transfusion dependency requires life-long chronic treatment with RBC transfusions at least once every 6 weeks. We exclude prophylactic RBC transfusions for sickle cell disease (for example, to prevent stroke) because we do not consider them to be of equal medical significance to transfusion-dependent thalassemia.

D. *What are disorders of hemostasis, and how do we evaluate them under 7.08?*

1. *Disorders of hemostasis* are characterized by abnormalities in blood clotting and include both *hypocoagulation* (inadequate blood clotting) and *hypercoagulation* (excessive blood clotting). The diagnosis of a disorder of hemostasis is based on evaluation of plasma clotting factors or platelets. *Hemophilia, von Willebrand disease,* and *thrombocytopenia* are some examples of hypocoagulation disorders. *Protein C* or *protein S deficiency* and *Factor V Leiden* are examples of hypercoagulation disorders.

2. The hospitalizations in 7.08 do not all have to be for the same complication of a disorder of hemostasis. They may be for three different complications of the disorder. Examples of complications that may result in hospitalization include uncontrolled bleeding requiring multiple factor concentrate infusions or platelet transfusions, anemia, thromboses, and embolisms. We will also consider any surgery that you have to be a complication of your disorder of hemostasis if you require treatment with factor infusions or anticoagulant medication to control bleeding or coagulation in connection with your surgery.

E. *What are disorders of bone marrow failure, and how do we evaluate them under 7.10?*

1. *Disorders of bone marrow failure* are characterized by bone marrow that does not make enough healthy RBCs, granulocytes (specialized types of white blood cells), platelets, or a combination of these cell types. The diagnosis is based on bone marrow aspirations or bone marrow biopsies. Myelodysplastic syndromes, aplastic anemia, granulocytopenia, and myelofibrosis are some examples of disorders of bone marrow failure.

2. The hospitalizations in 7.10A do not all have to be for the same complication of bone marrow failure. They may be for three different complications of the disorder. Examples of complications that may result in hospitalization include uncontrolled bleeding, anemia, and systemic bacterial, viral, or fungal infections.

3. For 7.10B, *transfusion-dependent* for myelodysplastic syndromes or aplastic anemias has the same meaning as it does for beta thalassemia major. (See 7.00C4.)

F. *How do we evaluate bone marrow or stem cell transplantation under 7.17?* We will consider you to be disabled for 12 months from the date of bone marrow or stem cell transplantation, or we may consider you to be disabled for a longer period if you are experiencing any serious post-transplantation complications, such as graft-versus-host (GVH) disease, frequent infections after immunosuppressive therapy, or significant deterioration of organ systems. We do not restrict our determination of the onset of disability to the date of the transplantation in 7.17. We may establish an earlier onset date of disability due to your transplantation if evidence in your case record supports such a finding.

G. *How do we use the functional criteria in 7.18?*

1. When we use the functional criteria in 7.18, we consider all relevant information in your case record to determine the impact of your hematological disorder on your ability to function independently, appropriately, effectively, *and* on a sustained basis in a work setting. Factors we will consider when we evaluate your functioning under 7.18 include, but are not limited to: Your symptoms, the frequency and duration of complications of your hematological disorder, periods of exacerbation and remission, and the functional impact of your treatment, including the side effects of your medication.

2. *Repeated complications* means that the complications occur on an average of three times a year, or once every 4 months, each lasting 2 weeks or more; or the complications do not last for 2 weeks but occur substantially more frequently than three times in a year or once every 4 months; or they occur less frequently than an average of three times a year or once every 4 months but last substantially longer than 2 weeks. Your impairment will satisfy this criterion regardless of whether you have the same kind of complication repeatedly, all different complications, or any other combination of complications; for example, two of the same kind of complication and a different one. You must have the required number of complications with the frequency and duration required in this section. Additionally, the complications must occur within the period we are considering in connection with your application or continuing disability review.

3. To satisfy the functional criteria in 7.18, your hematological disorder must result in a ''marked'' level of limitation in one of three general areas of functioning: Activities of daily living, social functioning, or difficulties in completing tasks due to deficiencies in concentration, persistence, or pace. Functional limitation may result from the impact of the disease process itself on your mental functioning, physical functioning, or both your mental and physical functioning. This limitation could result from persistent or intermittent symptoms, such as pain, severe fatigue, or malaise, resulting in a limitation of your ability to do a task, to concentrate, to persevere at a task, or to perform the task at an acceptable rate of speed. (*Severe fatigue* means a frequent sense of exhaustion that results in significant reduced physical activity or mental function. *Malaise* means frequent feelings of illness, bodily discomfort, or lack of well-being that result in significantly reduced physical activity or mental function.) You may also have limitations because of your treatment and its side effects.

4. *Marked* limitation means that the symptoms and signs of your hematological disorder interfere *seriously* with your ability to function. Although we do not require the use of such a scale, ''marked'' would be the fourth point on a five-point scale consisting of no limitation, mild limitation, moderate limitation, marked limitation, and extreme limitation. We do not define ''marked'' by a specific number of different activities of daily living or different behaviors in which your social functioning is impaired, or a specific number of tasks that you are able to complete, but by the nature and overall degree of interference with your functioning. You may have a marked limitation when several activities or functions are impaired, or even when only one is impaired. Additionally, you need not be totally precluded from performing an activity to have a marked limitation, as long as the degree of limitation interferes seriously with your ability to function independently, appropriately, and effectively. The term ''marked'' does not imply that you must be confined to bed, hospitalized, or in a nursing home.

5. *Activities of daily living* include, but are not limited to, such activities as doing household chores, grooming and hygiene, using a post office, taking public transportation, or paying bills. We will find that you have a ''marked'' limitation in activities of daily living if you have a serious limitation in your ability to maintain a household or take public transportation because of symptoms such as pain, severe fatigue, anxiety, or difficulty concentrating, caused by your hematological disorder (including complications of the disorder) or its treatment, even if you are able to perform some self-care activities.

6. *Social functioning* includes the capacity to interact with others independently, appropriately, effectively, and on a sustained basis. It includes the ability to communicate effectively with others. We will find that you have a ''marked'' limitation in maintaining

social functioning if you have a serious limitation in social interaction on a sustained basis because of symptoms such as pain, severe fatigue, anxiety, or difficulty concentrating, or a pattern of exacerbation and remission, caused by your hematological disorder (including complications of the disorder) or its treatment, even if you are able to communicate with close friends or relatives.

7. *Completing tasks in a timely manner* involves the ability to sustain concentration, persistence, or pace to permit timely completion of tasks commonly found in work settings. We will find that you have a ''marked'' limitation in completing tasks if you have a serious limitation in your ability to sustain concentration or pace adequate to complete work-related tasks because of symptoms, such as pain, severe fatigue, anxiety, or difficulty concentrating caused by your hematological disorder (including complications of the disorder) or its treatment, even if you are able to do some routine activities of daily living.

H. *How do we consider your symptoms, including your pain, severe fatigue, and malaise?* Your symptoms, including pain, severe fatigue, and malaise, may be important factors in our determination whether your hematological disorder(s) meets or medically equals a listing, or in our determination whether you are otherwise able to work. We cannot consider your symptoms unless you have medical signs or laboratory findings showing the existence of a medically determinable impairment(s) that could reasonably be expected to produce the symptoms. If you have such an impairment(s), we will evaluate the intensity, persistence, and functional effects of your symptoms using the rules throughout 7.00 and in our other regulations. (See §§ 404.1528, 404.1529, 416.928, and 416.929 of this chapter.) Additionally, when we assess the credibility of your complaints about your symptoms and their functional effects, we will not draw any inferences from the fact that you do not receive treatment or that you are not following treatment without considering all of the relevant evidence in your case record, including any explanations you provide that may explain why you are not receiving or following treatment.

I. *How do we evaluate episodic events in hematological disorders?* Some of the listings in this body system require a specific number of events within a consecutive 12-month period. (See 7.05, 7.08, and 7.10A.) When we use such criteria, the 12-month period must occur within the period we are considering in connection with your application or continuing disability review.

J. *How do we evaluate hematological disorders that do not meet one of these listings?*

1. These listings are only examples of common hematological disorders that we consider severe enough to prevent a person from doing any gainful activity. If your disorder does not meet the criteria of any of these listings, we must consider whether you have a disorder that satisfies the criteria of a listing in another body system. For example, we will evaluate hemophilic joint deformity or bone or joint pain from myelofibrosis under 1.00; polycythemia vera under 3.00, 4.00, or 11.00; chronic iron overload resulting from repeated RBC transfusion (transfusion hemosiderosis) under 3.00, 4.00, or 5.00; and the effects of intracranial bleeding under 11.00 or 12.00.

2. If you have a severe medically determinable impairment(s) that does not meet a listing, we will determine whether your impairment(s) medically equals a listing. (See §§ 404.1526 and 416.926 of this chapter.) Hematological disorders may be associated with disorders in other body systems, and we consider the combined effects of multiple impairments when we determine whether they medically equal a listing. If your impairment(s) does not medically equal a listing, you may or may not have the residual functional capacity to engage in substantial gainful activity. We proceed to the fourth, and, if necessary, the fifth steps of the sequential evaluation process in §§ 404.1520 and 416.920. We use the rules in §§ 404.1594, 416.994, and 416.994a of this chapter, as appropriate, when we decide whether you continue to be disabled.

7.01 Category of Impairments, Hematological Disorders

7.05 *Hemolytic anemias (including sickle cell disease, thalassemia, and their variants)* (see 7.00C), with:

A. Documented painful (vaso-occlusive) crises requiring parenteral (intravenous or intramuscular) narcotic medication, occurring at least six times within a 12-month period with at least 30 days between crises.

OR

B. Complications of hemolytic anemia requiring at least three hospitalizations within a 12-month period and occurring at least 30 days apart. Each hospitalization must last at least 48 hours, which can include hours in a hospital emergency department immediately before the hospitalization. (See 7.00C2).

OR

C. Hemoglobin measurements of 7.0 grams per deciliter (g/dL) or less, occurring at least three times within a 12-month period with at least 30 days between measurements.

OR

D. Transfusion-dependent beta thalassemia major (see 7.00C4).

7.08 *Disorders of hemostasis* (including hemophilia and thrombocytopenia) (see 7.00D), with complications requiring at least three hospitalizations within a 12-month period and occurring at least 30 days apart. Each hospitalization must last at least 48 hours, which can include hours in a hospital emergency department immediately before the hospitalization. (See 7.00D2.)

7.10 *Disorders of bone marrow failure* (including myeloproliferative syndrome, aplastic anemia, and granulocytopenia) (see 7.00E), with:

A. Complications of bone marrow failure requiring at least three hospitalizations within a 12-month period and occurring at least 30 days apart. Each hospitalization must last at least 48 hours, which can include hours in a hospital emergency department immediately before the hospitalization. (See 7.00E2.)

OR

B. Transfusion-dependent myelodysplastic syndromes or aplastic anemias (see 7.00C4).

7.17 *Hematological disorders treated by bone marrow or stem cell transplantation* (see 7.00F). Consider under a disability for at least 12 months from the date of transplantation. After that, evaluate any residual impairment(s) under the criteria for the affected body system.

7.18 *Repeated complications of hematological disorders* (see 7.00G2), including those complications listed in 7.05, 7.08, and 7.10 but without the requisite findings for those listings, or other complications (for example, anemia, osteonecrosis, retinopathy, skin ulcers, silent central nervous system infarction, cognitive or other mental limitation, or limitation of joint movement), resulting in significant, documented symptoms or signs (for example, pain, severe fatigue, malaise, fever, night sweats, headaches, joint or muscle swelling, or shortness of breath), and one of the following at the marked level (see 7.00G4):

A. Limitation of activities of daily living (see 7.00G5).

B. Limitation in maintaining social functioning (see 7.00G6).

C. Limitation in completing tasks in a timely manner due to deficiencies in concentration, persistence, or pace (see 7.00G7).

* * * * *

13.00 Malignant Neoplastic Diseases

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K. *How do we evaluate specific malignant neoplastic diseases?*

* * * * *

2. *Leukemia.*

* * * * *

c. *Chronic lymphocytic leukemia.*

* * * * *

ii. We evaluate the complications and residual impairment(s) from chronic lymphocytic leukemia (CLL) under the appropriate listings, such as 13.05A2 or an appropriate listing in 7.00.

* * * * *

3. *Macroglobulinemia or heavy chain disease.* * * * We evaluate the resulting impairment(s) under the criteria of 7.00 or any other affected body system.

* * * * *

Part B

* * * * *

107.00 HEMATOLOGICAL DISORDERS

A. *What hematological disorders do we evaluate under these listings?*

1. We evaluate non-malignant (non-cancerous) hematological disorders, such as hemolytic anemias (107.05), disorders of hemostasis (107.08), and disorders of bone marrow failure (107.10), which disrupt the normal development and function of white blood cells, red blood cells, platelets, and blood-clotting factors.

2. We evaluate malignant (cancerous) hematological disorders, such as lymphoma, leukemia, and multiple myeloma under the appropriate listings in 113.00, except for lymphoma associated with human

immunodeficiency virus (HIV) infection, which we evaluate under 114.08E.

B. *What evidence do we need to document that you have a hematological disorder?* We need the following evidence to document that you have a hematological disorder:

1. A laboratory report of a definitive test that establishes a hematological disorder, signed by a physician; or

2. A laboratory report of a definitive test that establishes a hematological disorder that is not signed by a physician *and* a report from a physician that states you have the disorder; or

3. When we do not have a laboratory report of a definitive test, a persuasive report from a physician that a positive diagnosis of your hematological disorder was confirmed by appropriate laboratory analysis or other diagnostic method(s). To be persuasive, this report must state that you had the appropriate definitive laboratory test or tests for diagnosing your disorder and provide the results, or explain how your diagnosis was established by other diagnostic method(s) consistent with the prevailing state of medical knowledge and clinical practice.

4. We will make every reasonable effort to obtain the results of appropriate laboratory testing you have had. We will not purchase complex, costly, or invasive tests, such as tests of clotting factors, bone marrow aspirations, or bone marrow biopsies.

C. *What are hemolytic anemias, and how do we evaluate them under 107.05?*

1. *Hemolytic anemias* include an array of disorders that result in premature destruction of red blood cells (RBCs). The diagnosis of hemolytic anemia is based on hemoglobin electrophoresis or analysis of the contents of the RBC (hemoglobin, enzymes) and the envelope (membrane) of the RBC. Sickle cell disease, thalassemia, and their variants are some examples of hemolytic anemias.

2. The hospitalizations in 107.05B do not all have to be for the same complication of the hemolytic anemia. They may be for three different complications of the disorder. Examples of complications of hemolytic anemia that may result in hospitalization include dactylitis, osteomyelitis, painful (vaso-occlusive) crisis, pulmonary infections or infarctions, acute chest syndrome, pulmonary hypertension, chronic heart failure, gallbladder disease, hepatic (liver) failure, renal (kidney) failure, nephrotic syndrome, aplastic crisis, and cerebrovascular accident (stroke).

3. For 107.05C, we do not require hemoglobin to be measured during a period in which you are free of pain or other symptoms of your disorder. We will accept hemoglobin measurements made while you are experiencing complications of your hemolytic anemia.

4. *Transfusion-dependent* in 107.05D refers to the most serious type of beta thalassemia major, in which the bone marrow cannot produce sufficient numbers of RBCs to maintain life. Transfusion dependency requires life-long chronic treatment with RBC transfusions at least once every 6 weeks. We exclude prophylactic RBC transfusions for sickle cell disease (for example, to prevent stroke) because we do not consider them to be of equal medical significance to transfusion-dependent thalassemia.

D. *What are disorders of hemostasis, and how do we evaluate them under 107.08?*

1. *Disorders of hemostasis* are characterized by abnormalities in blood clotting and include both *hypocoagulation* (inadequate blood clotting) and *hypercoagulation* (excessive blood clotting). The diagnosis of a disorder of hemostasis is based on evaluation of plasma clotting factors or platelets. *Hemophilia, von Willebrand disease,* and *thrombocytopenia* are some examples of hypocoagulation disorders. *Protein C* or *protein S deficiency* and *Factor V Leiden* are examples of hypercoagulation disorders.

2. The hospitalizations in 107.08 do not all have to be for the same complication of a disorder of hemostasis. They may be for three different complications of the disorder. Examples of complications that may result in hospitalization include uncontrolled bleeding requiring multiple factor concentrate infusions or platelet transfusions, anemia, thromboses, and embolisms. We will also consider any surgery that you have to be a complication of your disorder of hemostasis if you require treatment with factor infusions or anticoagulant medication to control bleeding or coagulation in connection with your surgery.

E. *What are disorders of bone marrow failure, and how do we evaluate them under 107.10?*

1. *Disorders of bone marrow failure* are characterized by bone marrow that does not make enough healthy RBCs, granulocytes (specialized types of white blood cells), platelets, or a combination of these cell types. The diagnosis is based on bone marrow aspirations or bone marrow biopsies. Myelodysplastic syndromes, aplastic anemia, granulocytopenia, and myelofibrosis are some examples of disorders of bone marrow failure.

2. The hospitalizations in 107.10A do not all have to be for the same complication of bone marrow failure. They may be for three different complications of the disorder. Examples of complications that may result in hospitalization include uncontrolled bleeding, anemia, and systemic bacterial, viral, or fungal infections.

3. For 107.10B, *transfusion-dependent* for myelodysplastic syndromes or aplastic anemias has the same meaning as it does for beta thalassemia major. (See 107.00C4.)

F. *How do we evaluate bone marrow or stem cell transplantation under 107.17?* We will consider you to be disabled for 12 months from the date of bone marrow or stem cell transplantation, or we may consider you to be disabled for a longer period if you are experiencing any serious post-transplantation complications, such as graft-versus-host (GVH) disease, frequent infections after immunosuppressive therapy, or significant deterioration of organ systems. We do not restrict our determination of the onset of disability to the date of the transplantation in 107.17. We may establish an earlier onset of disability due to your transplantation if evidence in your case record supports such a finding.

G. *How do we consider your symptoms, including your pain, severe fatigue, and malaise?* Your symptoms, including pain, severe fatigue, and malaise, may be important factors in our determination whether your hematological disorder meets or medically equals a listing, or in our determination whether you otherwise have marked and severe functional limitations. We cannot consider your symptoms unless you have medical signs or laboratory findings showing the existence of a medically determinable impairment(s) that could reasonably be expected to produce the symptoms. If you have such an impairment(s), we will evaluate the intensity, persistence, and functional effects of your symptoms using the rules throughout 107.00 and in our other regulations. (See §§ 416.928 and 416.929 of this chapter.) Additionally, when we assess the credibility of your complaints about your symptoms and their functional effects, we will not draw any inferences from the fact that you do not receive treatment or that you are not following treatment without considering all of the relevant evidence in your case record, including any explanations you provide that may explain why you are not receiving or following treatment.

H. *How do we evaluate episodic events in hematological disorders?* Some of the listings in this body system require a specific number of events within a consecutive 12-month period. (See 107.05, 107.08, and 107.10A.) When we use such criteria, the 12-month period must occur within the period we are considering in connection with your application or continuing disability review.

I. *How do we evaluate hematological disorders that do not meet one of these listings?*

1. These listings are only examples of common hematological disorders that we consider severe enough to result in marked and severe functional limitations. If your disorder does not meet the criteria of any of these listings, we must consider whether you have a disorder that satisfies the criteria of a listing in another body system. For example, we will evaluate hemophilic joint deformity under 101.00; polycythemia vera under 103.00, 104.00, or 111.00; chronic iron overload resulting from repeated RBC transfusion (transfusion hemosiderosis) under 103.00, 104.00, or 105.00; and the effects of intracranial bleeding under 111.00 or 112.00.

2. If you have a severe medically determinable impairment(s) that does not meet a listing, we will determine whether your impairment(s) medically equals a listing. (See § 416.926 of this chapter.) Hematological disorders may be associated with disorders in other body systems, and we consider the combined effects of multiple impairments when we determine whether they medically equal a listing. If your impairment(s) does not medically equal a listing, we will also consider whether it functionally equals the listings. (See § 416.926a of this chapter.) We use the rules in § 416.994a of this chapter when we decide whether you continue to be disabled.

107.01 Category of Impairments, Hematological Disorders

107.05 *Hemolytic anemias* (including sickle cell disease, thalassemia, and their variants) (see 107.00C), with:

A. Documented painful (vaso-occlusive) crises requiring parenteral (intravenous or

intramuscular) narcotic medication, occurring at least six times within a 12-month period with at least 30 days between crises.

OR

B. Complications of hemolytic anemia requiring at least three hospitalizations within a 12-month period and occurring at least 30 days apart. Each hospitalization must last at least 48 hours, which can include hours in a hospital emergency department immediately before the hospitalization. (See 107.00C2.)

OR

C. Hemoglobin measurements of 7.0 grams per deciliter (g/dL) or less, occurring at least three times within a 12-month period with at least 30 days between measurements.

OR

D. Transfusion-dependent beta thalassemia major (see 107.00C4).

107.08 *Disorders of hemostasis* (including hemophilia and thrombocytopenia) (see 107.00D), with complications requiring at least three hospitalizations within a 12-month period and occurring at least 30 days apart. Each hospitalization must last at least 48 hours, which can include hours in a hospital emergency department immediately before the hospitalization. (See 107.00D2.)

107.10 *Disorders of bone marrow failure (including myeloproliferative syndrome, aplastic anemia, and granulocytopenia)* (see 107.00E), with:

A. Complications of bone marrow failure requiring at least three hospitalizations within a 12-month period and occurring at least 30 days apart. Each hospitalization must last at least 48 hours, which can include hours in a hospital emergency department immediately before the hospitalization. (See 107.00E2.)

OR

B. Transfusion-dependent myelodysplastic syndromes or aplastic anemias (see 107.00C4).

107.17 *Hematological disorders treated by bone marrow or stem cell transplantation* (see 107.00F). Consider under a disability for at least 12 months from the date of transplantation. After that, evaluate any residual impairment(s) under the criteria for the affected body system.

* * * * *

[FR Doc. 2013–27514 Filed 11–18–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF EDUCATION

34 CFR Part 200

[Docket ID ED–2013–OESE–0018]

Title I—Improving the Academic Achievement of the Disadvantaged

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice of proposed rulemaking; notice to reopen the public comment period.

SUMMARY: On August 23, 2013, we published in the **Federal Register** (78 FR 52467) a notice of proposed rulemaking regarding modified academic achievement standards and alternate assessments based on those modified academic achievement standards. This notice established an October 7, 2013, deadline for the submission of written comments. We are reopening the public comment period for seven days.

DATES: For the proposed rule published on August 23, 2013 (78 FR 52467), written submissions must be received by the Department on or before November 26, 2013.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via U.S. mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov,* including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Are you new to the site?''
- *U.S. Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about the proposed amendments, address them to Monique Chism, Director, Student Achievement and School Accountability Programs, Office of Elementary and Secondary Education, Attention: AA–MAAS NPRM, U.S. Department of Education, 400 Maryland Avenue SW., Room 3W224, Washington, DC 20202–6132.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Carlos Martinez, U.S. Department of Education, 400 Maryland Avenue SW., Room 3W104, Washington, DC 20202–6132. Telephone: 202–260–1440.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background: On August 23, 2013, we published a notice of proposed rulemaking in the **Federal Register** (78 FR 52467), proposing to amend the regulations governing Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (the ''Title I regulations''), to no longer authorize a State, in satisfying ESEA accountability requirements, to define modified academic achievement standards and develop alternate assessments based on those modified academic achievement standards. These proposed amendments would permit, as a transitional measure and for a limited period of time, States that administered alternate assessments based on modified academic achievement standards in the 2012–13 school year to continue to administer alternate assessments based on modified academic achievement standards and include the results in adequate yearly progress (AYP) calculations, subject to limitations on the number of proficient scores that may be counted for AYP purposes. The notice of proposed rulemaking established an October 7, 2013, deadline for the submission of written comments. Though the Federal eRulemaking Portal was in operation during the recent government shutdown, which included the final seven days of the original public comment period, we recognize that interested parties reasonably may have believed that the government shutdown resulted in a shutdown of the public comment period. To ensure that all interested parties are provided the opportunity to submit comments, we are reopening the public comment period for seven days.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must

have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: November 14, 2013.

Deborah S. Delisle,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2013–27699 Filed 11–18–13; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2011–0672; FRL–9902–02–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; Ohio SO_2 Air Quality Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On June 24, 2011, Ohio Environmental Protection Agency submitted for Clean Air Act State Implementation Plan (SIP) approval, revisions to Ohio Administrative Code (OAC) rules: 3745–18–01, 3745–18–03 to 3745–18–52, 3745–18–54 to 3745–18–77, 3745–18–79, 3745–18–81 to 3745–18–89, and 3745–18–91 to 3745–18–94. The rule revisions primarily update facility information and remove SO_2 requirements for shutdown facilities throughout the SIP. EPA believes that the revisions improve the clarity of the rule without affecting the stringency and therefore is proposing to approve all of the submitted revisions except for specific paragraphs in OAC 3745–18–04.

DATES: Comments must be received on or before December 19, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2011–0672, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: aburano.douglas@epa.gov.*
3. *Fax:* (312) 408–2279.
4. *Mail:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–9401, *Arra.Sarah@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register,** EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: September 26, 2013.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2013–27566 Filed 11–18–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA–HQ–OAR–2009–0927; FRL–9902–52–OAR]

RIN 2060–AR78

Greenhouse Gas Reporting Program: Amendments and Confidentiality Determinations for Fluorinated Gas Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to amend certain provisions of the Fluorinated Gas Production source category of the Greenhouse Gas Reporting Rule. The proposed changes would reduce the level of detail in which emissions were reported, establish a new set of default global warming potentials, eliminate the mass-balance emission calculation method, and clarify the emission factor method. We are also proposing confidentiality determinations for the new and substantially revised reporting requirements of the Fluorinated Gas Production source category.

DATES: *Comments.* Comments must be received on or before January 21, 2014.

Public Hearing. The EPA does not plan to conduct a public hearing unless requested. To request a hearing, please contact the person listed in the following **FOR FURTHER INFORMATION CONTACT** section by November 26, 2013. Upon such request, the EPA will hold the hearing on December 4, 2013, in the Washington, DC area. The EPA will provide further information about the hearing on the GHGRP Web site, *http://www.epa.gov/climatechange/emissions/ghgrulemaking.html* if a hearing is requested.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2009–0927, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: GHGReportingFGHG@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2009–0927 in the subject line of the message.
- *Fax:* (202) 566–9744.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode 2822T, Attention Docket ID No. EPA–HQ–OAR–2009–0927, 1200 Pennsylvania Avenue NW., Washington, DC 20004.
- *Hand/Courier Delivery:* EPA Docket Center, Public Reading Room, William

Jefferson Clinton (WJC) West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2009–0927, Amendments and Confidentiality Determinations for Fluorinated Gas Production. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Should you choose to submit information that you claim to be CBI in response to this notice, clearly mark the part or all of the comments that you claim to be CBI. For information that you claim to be CBI in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. Send or deliver information claimed as CBI to only the mail or hand/courier delivery address listed above, attention: Docket ID No. EPA–HQ–OAR–2009–0927.

If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should be free of special characters, any form of encryption, and any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207J), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; email address: *GHGReportingRule@epa.gov.* For technical information, please go to the Greenhouse Gas Reporting Rule Program Web site at *http://www.epa.gov/climatechange/emissions/ghgrulemaking.html.* To submit a question, select Rule Help Center, followed by Contact Us. To obtain information about the public hearing or to register to speak at the hearing, please go to *http://www.epa.gov/climatechange/emissions/ghgrulemaking.html.* Alternatively, contact Carole Cook at 202–343–9263.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this proposal will also be available through the WWW. Following the Administrator's signature, a copy of this action will be posted on the EPA's Greenhouse Gas Reporting Program Web site at *http://www.epa.gov/climatechange/emissions/ghgrulemaking.html.*

SUPPLEMENTARY INFORMATION:

Regulated Entities. The Administrator determined that this action is subject to the provisions of Clean Air Act (CAA) section 307(d). See CAA section 307(d)(1)(V) (the provisions of section 307(d) apply to ''such other actions as the Administrator may determine''). These are proposed amendments to existing regulations. If finalized, these amended regulations would affect producers of fluorinated gases. Regulated categories and examples of affected entities include those listed in Table 1 of this preamble:

TABLE 1—EXAMPLE OF AFFECTED ENTITIES BY CATEGORY

Category	NAICS	Examples of affected facilities
Fluorinated Gas Production	325120	Industrial gases manufacturing facilities.

Table 1 of this preamble is not intended to be exhaustive, but rather lists the types of facilities that the EPA is now aware could be potentially affected by the reporting requirements. Other types of facilities not listed in the table could also be subject to reporting requirements. To determine whether you are affected by this action, you should carefully examine the applicability criteria found in 40 CFR part 98, subpart A or the relevant criteria in subpart L. If you have questions regarding the applicability of this action to a particular facility, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

CAA Clean Air Act
CBI confidential business information
CFC chlorofluorocarbon
CFR Code of Federal Regulations
CH_4 methane
CO_2 carbon dioxide
CO2e CO2-equivalent
DE destruction efficiency
EAR Export Administration Regulations
EF emission factor
e-GGRT electronic-GHG Reporting Tool
EPA U.S. Environmental Protection Agency

FR Federal Register
GHG greenhouse gas
GHGRP Greenhouse Gas Reporting Program
GWP global warming potential
HCFC hydrochlorofluorocarbon
HFC hydrofluorocarbon
HFE hydrofluoroether
ITAR International Traffic in Arms Regulations
IPCC Intergovernmental Panel on Climate Change
kg kilograms
LCD liquid crystal display
MEMS micro-electro-mechanical systems
$MtCO_2e$ metric tons carbon dioxide equivalent
N_2O nitrous oxide
NAICS North American Industry Classification System
NF_3 nitrogen trifluoride
NODA notice of data availability
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PFC perfluorocarbon
RFA Regulatory Flexibility Act
RY reporting year
SAR Second Assessment Report
SF_6 sulfur hexafluoride
U.S. United States
UMRA Unfunded Mandates Reform Act of 1995
UNFCCC United Nations Framework Convention on Climate Change
WWW Worldwide Web

Table of Contents

I. Background

A. How is this preamble organized?

The first section of this preamble contains background information regarding the Greenhouse Gas Reporting Program (GHGRP), an overview of the proposed amendments, and information on when the amendments would become effective, how this rule affects confidentiality determinations, and how this proposed rule relates to other GHG reporting notices. This section also discusses the EPA's use of our legal authority under the Clean Air Act to collect data under the Greenhouse Gas Reporting Rule, hereinafter referred to as the ''GHG Reporting Rule'' or ''Part 98.''

The second section of this preamble describes in detail the changes that are being proposed, presents the EPA's rationale for the proposed changes, and identifies issues on which the EPA is particularly interested in receiving public comments.

Finally, the third section of the preamble discusses the various statutory and executive order requirements applicable to this proposed rulemaking.

B. Background on the GHG Reporting Rule

The GHG Reporting Rule was published in the **Federal Register** on October 30, 2009 (74 FR 56260). Part 98 became effective on December 29, 2009, and requires reporting of GHGs from certain facilities and suppliers. A subsequent notice finalizing reporting requirements for Fluorinated Gas Production was published on December 1, 2010 (75 FR 74774). (The final rule published on December 1, 2010 is hereinafter referred to as the ''2010 Final Rule'').

C. Legal Authority

The EPA is proposing these rule amendments under its existing CAA authority provided in CAA section 114. As stated in the preamble to the 2009 final rule (74 FR 56260, October 30, 2009), CAA section 114 provides the EPA broad authority to require the information proposed to be gathered by this rule because such data would inform and are relevant to the EPA's carrying out a wide variety of CAA provisions.

In addition, the EPA is proposing confidentiality determinations under its authorities provided in sections 114, 301, and 307 of the CAA for the proposed new or substantially revised data elements that would be reported under this proposed rule. As mentioned above, CAA section 114 provides the EPA authority to obtain the information in Part 98. Section 114(c) requires that EPA make publicly available information obtained under section 114 except for information which is not emission data and which qualifies for confidential treatment. The Administrator has determined that this action (proposed amendments and confidentiality determinations) is subject to the provisions of section 307(d) of the CAA.

D. Summary of Proposed Amendments.

The EPA is proposing to amend certain provisions of the Greenhouse Gas Reporting Rule that affect fluorinated gas production facilities. The proposed amendments include the following changes:

- Revision of the reporting requirements to allow more aggregated reporting to address potential disclosure concerns (see Section II.A.1 of this preamble).
- Proposal of a revised set of default global warming potentials (GWPs) for fluorinated greenhouse gases (fluorinated GHGs).
- Removal of the option to use the mass-balance approach.
- Clarification of the emission factor approach.
- Various technical corrections.

E. When would these amendments apply?

These amendments would apply to reporting under 40 CFR part 98, subpart L (subpart L) that occurs in calendar year 2015 and subsequent years. This would include reporting of information for reporting year 2014 and subsequent reporting years. It would also include reporting of certain information for reporting years 2011 and 2012, and to reporting of that information for

reporting year 2013. We previously deferred the former under the rule titled ''2012 Technical Corrections, Clarifying and Other Amendments to the Greenhouse Gas Reporting Rule, and Confidentiality Determinations for Certain Data Elements of the Fluorinated Gas Source Category'' (77 FR 51477; August 24, 2012). We proposed to defer the latter under the rule titled, ''2013 Revisions to the Greenhouse Gas Reporting Rule and Proposed Confidentiality Determinations for New or Substantially Revised Data Elements'' (hereinafter referred to as the Proposed 2013 Revisions Rule; 78 FR 19802; April 2, 2013).

F. How would these amendments affect confidentiality determinations?

In this notice, we are proposing confidentiality determinations for proposed new or substantially revised subpart L data elements. The EPA has previously proposed confidentiality determinations for subpart L data elements (77 FR 1434, January 10, 2012), which did not cover the new or substantially revised data elements that the EPA is proposing in the present action. The proposed confidentiality determinations for these data elements together with our rationale are discussed in detail in Section II.D of this preamble. In addition, the proposed amendments would delete certain existing subpart L reporting requirements, while continuing to require that records be kept of these elements. Should the EPA finalize the deletion of these data elements, the EPA will not take final action on the previously proposed confidentiality determinations for the deleted data elements.

G. How does this proposed rule relate to the proposed rule titled, ''Revisions to Reporting and Recordkeeping Requirements, and Proposed Confidentiality Determinations under the Greenhouse Gas Reporting Program?''

On September 11, 2013, the EPA proposed a rule titled, ''Revisions to Reporting and Recordkeeping Requirements, and Proposed Confidentiality Determinations under the Greenhouse Gas Reporting Program'' (78 FR 55994; hereinafter referred to as the proposed Inputs rule). In that proposed rule, the EPA proposed to add a requirement for certain reporters under 24 subparts, including subpart L, to use an EPA-provided inputs verification tool. For these subparts, the designated inputs to emission equations for which reporting was deferred to 2015 and disclosure concerns have been identified would be entered into the inputs verification tool. In addition, these inputs would be kept by the facilities as records for five years.

Both the proposed Inputs rule and this proposed rule are proposing changes to the subpart L reporting requirements. A redline/strikeout version of the subpart L regulatory text that reflects both sets of proposed changes is available in the docket for this rulemaking. While both sets of changes are intended to address disclosure concerns, the reporting elements that are proposed to be amended generally differ. The proposed Inputs rule would amend and/or remove a number of reporting elements that are inputs to emission equations. This proposed rule would amend and/or remove other reporting requirements. In some cases, the two proposed rules are proposing changes to the same provisions, e.g., because those provisions contain several data elements, some of which are inputs, and some of which are not. For example, the proposed Inputs rule is proposing to remove the data element ''mass'' from 40 CFR 98.126(b)(6) through (b)(8). This rule is proposing to remove these paragraphs altogether, because the remaining data elements (chemical formulas of reactants, products, and by-products) are no longer useful without the corresponding masses. (The rationale for these and the other proposed amendments to the subpart L reporting requirements is discussed in Section II.A.3 of this preamble.)

II. Proposed Amendments

A. Proposed Amendments to the Subpart L Reporting Requirements

1. Background of Proposed Amendments to Subpart L Reporting Requirements

On January 10, 2012, the EPA published proposed determinations regarding whether the Greenhouse Gas Reporting Program data elements in eight subparts of Part 98, including subpart L, would or would not be entitled to confidential treatment under the CAA (77 FR 1434). In that proposed rule, the EPA proposed that the chemical identities and quantities of the fluorinated GHG emissions at the process level, reported under subpart L, are ''emission data.'' Under section 114(c) of the CAA, ''emission data'' are not eligible for confidential treatment and must be made publicly available.

The EPA received two comments on that proposed rule related to subpart L. These commenters, the American Chemistry Council and 3M Company, raised concerns that the release of certain data elements that the EPA proposed to classify as emission data (and that therefore would not be eligible for treatment as confidential business information), would reveal ''trade secrets.'' Both commenters stated that the disclosure of the identity and quantities of the fluorinated GHGs emitted at the process level, from either process vents or fugitive sources, would reveal ''trade secrets'' regarding individual chemical production processes. 3M stated that process-level emission data provides specific information on reactants, by-products, and products that would provide competitors with a detailed understanding of 3M's manufacturing process. They noted that competitors with knowledge of fluorine chemistry could use such information to identify the particular manufacturing pathways used by 3M. They asserted that competitors could then duplicate these processes without having to incur research and development costs, putting 3M at a ''competitive [dis]advantage.''

The American Chemistry Council and 3M Company also expressed concern that the disclosure of the identity and quantity of emissions at the process level could violate export control regulations. Specifically, the commenters stated that the release of some data elements would make available to the public information that is subject to Export Administration Regulations (EAR) and International Traffic in Arms Regulations (ITAR) that prohibit public disclosure for reasons of ''national security, anti-terrorism, nuclear non-proliferation, and chemical and biological weapons security.'' The commenters stated that the EAR and ITAR control not only export of products, but also export of technical knowledge, such as the design of a product and production information, and that the release of process-level emission data may provide such insight into the design of a product or production information that is export-controlled. The commenters stated that if the EPA attempted to protect export-controlled information from disclosure by implementing ''an export control plan,'' this would be in conflict with EPA's position that emission data cannot be withheld from the public under the CAA.

Following receipt of the public comments on the proposed CBI determinations, the EPA proposed and promulgated temporary, less detailed reporting requirements for reporting years 2011 and 2012 (77 FR 51477,

August 24, 2012).[1] This was intended to allow the EPA additional time to evaluate the concerns raised by the commenters and to consider how the rule might be changed to balance these concerns with the EPA's need to obtain the data necessary to inform the development of future GHG policies and programs. The EPA presented several reporting options, along with some of their advantages and disadvantages, in a memorandum (''Potential Future Subpart L Options'') that was placed in the docket to that rulemaking when the temporary reporting requirements were proposed (EPA–HQ–OAR–2011–0147). The options presented in the memorandum were based on reporting emissions at varying levels of aggregation for both the source of the emissions (ranging from reporting by process and by emission type to reporting at the facility level) and the chemicals emitted (ranging from reporting by speciated fluorinated GHG to reporting in CO_2e).

The EPA received two written comments on the alternatives presented in the memorandum. In addition, the EPA discussed alternative reporting options with fluorinated gas producers and other stakeholders. These comments and discussions are summarized further in the ''Rationale'' Section II.A.3 of this preamble.

2. Summary of Proposed Amendments to Subpart L Reporting Requirements

Following review of the comments submitted on the proposed confidentiality determinations (77 FR 1434, January 10, 2012) and the memorandum entitled ''Potential Future Subpart L Options,'' and considering discussions with stakeholders, the EPA is proposing to permanently amend the subpart L reporting requirements to require reporting at a less aggregated level beginning in calendar year 2015. Specifically, we are proposing to require owners and operators of facilities producing fluorinated gases to report (1) emissions by fluorinated GHG group (chemical type) at the process level for each generically defined production or transformation process, and (2) emissions by chemical at the facility level for certain fluorinated GHG emissions.

Fluorinated GHG emissions would be reported by chemical at the facility level when (a) the fluorinated GHG was emitted in quantities above 1,000 $mtCO_2e$ and the facility produced more than one fluorinated gas product,[2] or (b) for facilities that produced only one fluorinated gas product, the fluorinated GHG emitted was a major fluorinated GHG constituent of a fluorinated gas product and the fluorinated gas product was sold or otherwise transferred to another person. (Other fluorinated GHG emissions at the facility level would be reported by chemical type.) Where the emission factor or emission calculation factor approaches are used, facilities would be required to further disaggregate process emissions by emission type, i.e., into vented vs. leaked emissions.

These changes would apply only to emissions from production and transformation processes; emissions from venting of container heels and destruction of previously produced fluorinated GHGs would be reported by chemical and by process as required by the 2010 Final Rule.

In addition to the changes above, we are proposing to replace the requirements to report process-specific emission factors, activity data, and destruction efficiencies with a requirement to identify, as a range, the level by which the emissions of each process are reduced or controlled, e.g., by destruction devices. We are also proposing to remove the requirement that facilities report the following data elements: The contents, locations, and functions of the streams analyzed under the scoping speciation (40 CFR 98.126(a)(3) and (a)(4)). In addition, we are proposing to revise the set of default GWPs used to calculate and report CO_2e emissions under subpart L. We are also proposing to amend several provisions of subpart A to be consistent with the revised subpart L reporting requirements for purposes of reporting emissions monitored under subpart L.

As discussed in Section II.A.7 of this preamble, all of these changes would apply to (previously deferred) reporting for Reporting Years 2011, 2012, and 2013, as well as to reporting in future years. The amendments would not change other requirements of Part 98, including the requirement under 40 CFR 98.3(g) that data used to calculate GHG emissions for each process be retained as records.

The EPA is also proposing to remove the option to use a mass-balance approach from the calculation and monitoring requirements of the rule. No facilities are currently using this approach. With this change, facilities would still be able to use the emission factor and emission calculation factor approaches to monitor, calculate, and report their fluorinated GHG emissions.

3. Rationale

As discussed above in Section II.A.1 of this preamble, certain subpart L reporters have raised concerns regarding reporting and potential disclosure of ''trade secrets'' and ''business sensitive information.'' We believe that these reporters have raised legitimate concerns regarding the potential disclosure of this information and the possible consequences to the reporting businesses. Based on our evaluation of these concerns and potential reporting alternatives, we are proposing amendments to subpart L that would address these concerns while continuing to collect the data necessary to inform the development of future GHG policies and programs. To enable the EPA to evaluate future GHG policies and programs, reporting should allow the EPA to understand the magnitudes and growth rates of emissions of different chemicals from different sources and to identify and analyze potential approaches to reducing emissions of these chemicals from these sources. In addition, reporting should enable the EPA to verify reported emissions. The proposed amendment would continue to meet these objectives, while at the same time addressing the potential disclosure concerns discussed above.

The EPA has considered a range of reporting options including varying levels of aggregation for the source of the emissions and for the fluorinated GHGs (chemicals) emitted. The levels of aggregation considered for the emission source included reporting by process and emissions type, by process type and subtype, and by facility. The levels of aggregation considered for the fluorinated GHGs included reporting by speciated fluorinated GHG, by fluorinated GHG group, or in terms of total CO_2e only. In addition, the EPA considered implementing various combinations of these options.

As discussed further in Sections II.A.3.a and II.A.3.b of this preamble, both process-specific and chemical-specific reporting are important to understanding sources of emissions and assessing approaches to reduce emissions. Process-specific emissions information allows the EPA to identify processes with high potential for emission reductions as well as measures to achieve those reductions.[3] Chemical-

[1] The EPA subsequently proposed to extend the temporary provisions through reporting year 2013 under the Proposed 2013 Revisions Rule.

[2] We are proposing to define fluorinated gas product as the product of the process, including isolated intermediates.

[3] In the rule finalizing Part 98, the EPA cited the following benefits of process-specific reporting,

Continued

specific information allows the EPA, as well as the public and the international community, to better understand the atmospheric impacts of U.S. emissions, to compare U.S. emissions to atmospheric measurements and, if inconsistencies between emissions and atmospheric measurements are found, to better understand the magnitudes and causes of those inconsistencies.

In their comments on the proposed confidentiality determinations and in subsequent communications, fluorinated gas producers have repeatedly stated that reporting, and subsequent disclosure, of chemical-specific emissions at the process level would provide insight into manufacturing methods that would enable competitors to gain a competitive advantage. After careful consideration of these comments, the EPA agrees with the fluorinated gas producers' assertion that chemical-specific, process-specific emissions may in some cases provide a detailed chemical ''fingerprint'' of a process that could enable competitors to deduce how that process works to produce a particular product. One producer (3M) explained that, for example, a competitor with expertise in fluorine chemistry may be able to analyze speciated emissions and identify reactants, by-products, intermediates, and products. By examining the ratios of these emissions, the competitor may be able to deduce process conditions (e.g., reaction temperatures or whether or not a catalyst was used) based on publicly available equilibrium constant data.

To address this concern while continuing to meet the objectives of the GHG Reporting Rule, the EPA is proposing to replace the current reporting of chemical-specific emissions at the process level with a reporting requirement that combines two levels of reporting. The proposed two-level reporting, which is discussed in more detail below, would avoid the potential disclosure concerns discussed above while retaining reporting of important information on emissions at both the process and chemical levels.

We believe that this proposal, by addressing the business-related concerns raised by commenters, would also address the concerns they raised regarding export control requirements. We request comment on whether or not this is the case.

a. Reporting by Generically Identified Process, Emission Type, and Fluorinated GHG Group

The first level of proposed reporting is reporting of emissions by generically identified process (as discussed below), emission type (i.e., vents vs. leaks), and fluorinated GHG group. While such reporting would provide less detail than the 2010 Final Rule on the chemicals emitted, the product of each process, and emissions from individual process vents, it would preserve key data to inform the development of GHG policies and programs. First, such reporting would enable the EPA to identify processes and emission types with high or quickly changing emissions. As stated in the 2009 Final Rule (74 FR 56311), identifying such processes is important because they may have the most potential for future reductions. Second, reporting by process, emission type, and fluorinated GHG group would help the EPA to identify and analyze reduction options. This is because reduction options are implemented at the process level and for specific emission types. Finally, process-level reporting is helpful for verifying emissions because it can allow comparison of emission rates among similar processes and because it can facilitate duplication of emissions calculations, which are performed at the process level.

Because the EPA agrees with commenters' concern that reporting the product of each process could lead to the disclosure of the identity of intermediates, and that such disclosure could in turn reveal information on how certain products are made, the EPA is proposing to identify processes generically rather than by the product of the process.[4] This identification would include three pieces of information for each process. First, the reporter would identify the process as a production process, a transformation process where no fluorinated GHG reactant is produced at another facility, or a transformation process where one or more fluorinated GHG reactants are produced at another facility. Second, within these categories, the reporter would further identify the process as a reaction, distillation, or packaging process, or as a combination of these. Third, the reporter would tag the process with an identifier chosen by the facility (e.g., a letter or number) that would remain constant from year to year to permit year-to-year comparisons of emissions from that process.

This method for identifying each process would supply useful information on the nature of the process without actually identifying the product of the process. For example, reporting the process type would enable the EPA to ascertain whether and how emission levels may vary across process types and thereby enable us to identify particular process types as having more potential for reductions. It would also permit the tracking of emissions from the same process from year to year. Moreover, it is generally consistent with the definition of ''process'' in subpart L.[5] That definition includes ''any, all, or a combination of reaction, recovery, separation, purification, or other activity, operation, manufacture, or treatment which are used to produce a fluorinated gas product.'' Because the term ''distillation'' may encompass recovery, separation, and purification, the EPA's preference is not to create separate classifications for recovery, separation, and purification. However, the EPA requests comment on whether the proposed classifications are sufficiently clear and comprehensive, or whether they should be expanded.

One drawback of generically identifying processes is that this approach would not allow the EPA to compare processes making the same product (including intermediates) across different facilities. While some products are produced at only one facility, several are produced at multiple facilities. The EPA believes that the proposed amendment is nevertheless appropriate despite this drawback, because the information that can be obtained by comparisons of types of processes across different facilities remains useful for the purposes of the GHGRP. Nevertheless, the EPA requests comment on alternative identification strategies that would avoid this drawback.

The EPA is proposing to establish five chemical types or groups into which

among others: ''Process-level reporting also provides information that will be useful in identifying processes that have reduced emissions over time and processes at specific plants that have the most potential for future reductions in emissions. In addition, the process-level reporting may provide information that can be used to improve methodologies for specific processes under future programs and to identify processes that may use a technology that could be the basis for an emission standard at a later time'' (74 FR 56311, October 30, 2009).

[4] For example, if the product of the process were emitted, as is frequently the case, its identity might be considered emissions data. This could lead to disclosure of its identity where the product was an intermediate whose identity would otherwise remain unknown to competitors.

[5] The definition of ''process'' in subpart L reads in part, ''Process means all equipment that collectively functions to produce a fluorinated gas product, including an isolated intermediate (which is also a fluorinated gas product), or to transform a fluorinated gas product. A process may consist of one or more unit operations. For the purposes of this subpart, process includes any, all, or a combination of reaction, recovery, separation, purification, or other activity, operation, manufacture, or treatment which are used to produce a fluorinated gas product.''

facilities would sort emissions for reporting at the process level. These groups are based primarily on chemical structure, which is correlated with atmospheric lifetime and GWP. Each group possesses a significantly different set of GWPs. The EPA believes that using these groups for reporting would avoid the potential disclosure concerns discussed above while still providing useful data that could inform technical and policy analysis. The groups are the same as those that we are proposing as the basis for default GWPs and include the following:

Fully fluorinated GHGs. This group would be defined as it currently is in the temporary subpart L reporting provisions. Fully fluorinated GHGs are fluorinated GHGs that contain only single bonds and in which all available valence locations are filled by fluorine atoms. This group includes but is not limited to saturated perfluorocarbons, SF_6, NF_3, SF_5CF_3, fully fluorinated linear, branched and cyclic alkanes, fully fluorinated ethers, fully fluorinated tertiary amines, fully fluorinated aminoethers, and perfluoropolyethers. Fully fluorinated GHGs have lifetimes of over 500 to several thousand years and GWPs of 6,290 to 22,800.

Saturated hydrofluorocarbons. This group would include hydrofluorocarbons (HFCs) that contain only single bonds (i.e., hydrofluoroalkanes such as HFC-134a). Saturated HFCs generally have atmospheric lifetimes from 1 to 55 years and GWPs from 100 to 5,000, though there are exceptions at both extremes. The average GWP of saturated HFCs is approximately 2,200, based on GWPs in AR4 and in the article ''Global Warming Potentials and Radiative Efficiencies of Halocarbons and Related Compounds: A Comprehensive Review (hereinafter referred to as the ''Comprehensive Review'' [6]). Because the range of lifetimes and GWPs spanned by the saturated HFCs is quite large, we are also considering the option of breaking saturated HFCs into two sets based on atmospheric lifetime. Saturated HFCs have lifetimes from 0.3 years to 270 years and GWPs from 12 to 14,800. Breaking the saturated HFCs out into two sets would reduce these ranges considerably and would thereby provide more precise information regarding the atmospheric behavior of each group. For example, the average GWP of the saturated HFCs with atmospheric lifetimes above 20 years is approximately 5,700, while the average GWP of the saturated HFCs with atmospheric lifetimes below 20 years is approximately 600. Moreover, information on the atmospheric lifetimes of emissions helps to inform policies that distinguish among chemicals based on their atmospheric lifetimes and GWPs.[7] However, one drawback of breaking out saturated HFCs by atmospheric lifetime is that it requires reporters to know the atmospheric lifetimes of the HFCs being reported as part of each saturated HFC group. While EPA could include this information in Table A–1 for the HFCs that are already on Table A–1, this information is not likely to be available for many HFCs that are not on Table A–1. Another drawback of breaking out saturated HFCs by atmospheric lifetime is that it would disaggregate reporting further than the proposed approach, potentially leading to disclosure concerns where process-specific reporting overlaps with facility-wide reporting. (This overlap is discussed in more detail in Section II.A.3.b. of this preamble.) To some extent, this concern could be mitigated by grouping saturated HFCs with lifetimes greater than or equal to 20 years with saturated HFEs with lifetimes greater than or equal to 20 years, and by creating a similar grouping for saturated HFCs and saturated HFEs with atmospheric lifetimes of less than 20 years. The EPA requests comment on the option of breaking out saturated HFCs by atmospheric lifetime for purposes of reporting emissions by fluorinated GHG group.

Saturated hydrofluoroethers. This group would include hydrofluoroethers (HFEs) that contain only single bonds (i.e., hydrofluoroethers such as HFE-134). Saturated HFCs generally have atmospheric lifetimes from several months to 30 years and GWPs from 100 to 5,000, although, as for saturated HFCs, there are exceptions at both extremes. The average GWP of saturated HFCs is approximately 1,600 (based on AR4 and Comprehensive Review GWPs). As is the case for HFCs, the range of atmospheric lifetimes and GWPs spanned by the saturated HFEs is quite large, and breaking these HFEs into two sets based on atmospheric lifetime would provide more precise information regarding the atmospheric behavior of each group. For example, the average GWP of the saturated HFEs with atmospheric lifetimes above 20 years is approximately 5,700, while the average GWP of the saturated HFCs with atmospheric lifetimes below 20 years is approximately 600. However, there are drawbacks associated with breaking the saturated HFEs into two groups that are similar to the drawbacks cited above for breaking the saturated HFCs into two groups. The EPA requests comment on the option of breaking the saturated HFEs into two groups based on atmospheric lifetime.

Unsaturated PFCs, unsaturated HFCs, unsaturated HCFCs, unsaturated HFEs, and fluorinated ketones. This group would include very short-lived compounds including unsaturated PFCs (e.g., hexafluoropropylene and tetrafluoroethylene), unsaturated HFCs (e.g., HFC-1234yf and perfluorobutyl ethene), unsaturated HCFCs, unsaturated HFEs (e.g., fluoroxene), and fluorinated ketones. According to the Comprehensive Review, these GHGs have lifetimes of a few days to weeks. The average GWPs of unsaturated PFCs, unsaturated HFCs, unsaturated HFEs, and fluorinated ketones are approximately 0.4, 0.3, 0.2, and 0.1 respectively. Most individual chemicals of these types have GWPs of less than one.

The EPA considered including fluorinated acetates and fluorinated formates in this group. However, the fluorinated acetates whose atmospheric lifetimes and GWPs have been studied often have lifetimes of months rather than days and GWPs in the 10s, significantly different from those of the compounds that would be included in this group. Fluorinated formates have still larger atmospheric lifetimes and GWPs. Thus, the EPA is proposing to include fluorinated acetates and fluorinated formates in the ''other fluorinated GHG'' group discussed below.

While multiple studies have indicated that unsaturated HFCs have short atmospheric lifetimes and low GWPs, fewer studies have been performed on unsaturated HCFCs, unsaturated HFEs and fluorinated ketones. Thus, the lifetimes and GWPs of unsaturated HCFCs, unsaturated HFEs, and fluorinated ketones are less certain. The EPA requests comment on the likely variability of the lifetimes and GWPs of unsaturated HCFCs, unsaturated HFEs and fluorinated ketones and on whether or not these compounds should be included in the very-short-lived group or in the ''Other fluorinated GHG'' group, discussed below.

[6] Hodnebrog, Ø., M. Etminan, J. S. Fuglestvedt, G. Marston, G. Myhre, C. J. Nielsen, K. P. Shine, and T. J. Wallington, ''Global Warming Potentials and Radiative Efficiencies of Halocarbons and Related Compounds: A Comprehensive Review,'' *Reviews of Geophysics*, Accepted manuscript online: 24 APR 2013. This article is discussed in more detail in Section II.A.4 of this preamble.

[7] For example, the Climate and Clean Air coalition to Reduce Short-Lived Climate Pollutants Initiative primarily focuses on chemicals with atmospheric lifetimes of less than 50 years.

Other fluorinated GHGs. This group includes the fluorinated GHGs that do not fall into any of the four sets defined above. To ensure that the gas groups are both distinct (i.e., do not overlap) and comprehensive (i.e., cover all fluorinated GHGs), this gas group is a catch-all. Based on the list of compounds and GWPs included in the Comprehensive Review, the EPA's understanding is that this group would consist of fluorinated acetates, fluorinated formates, carbonofluoridates, and fluorinated alcohols with lifetimes ranging from a few weeks to a few years and GWPs ranging from less than five to the hundreds. The EPA requests comment on which chemicals would fall into this group and on their atmospheric lifetimes and GWPs. The EPA also requests comment on whether this group should be combined with the group of very short-lived compounds discussed above (Unsaturated PFCs, unsaturated HFCs, unsaturated HCFCs, unsaturated HFEs, and fluorinated ketones). Keeping the groups separate allows for a more precise assessment of each group's atmospheric impacts, particularly since the ''other'' group, due to its necessarily open-ended definition, could eventually include fluorinated GHGs with relatively long lifetimes and high GWPs. Keeping the groups separate would also be consistent with the approach proposed for setting default GWPs, discussed further below. However, if the number of GHGs in both groups is small, combining the groups would both simplify reporting and reduce potential disclosure concerns.

The advantage of requiring reporting by these fluorinated GHG groups is that it would address the disclosure concerns described above by avoiding the disclosure of the identities of the individual species that are emitted from production and transformation processes while still providing general information on the GWPs and atmospheric lifetimes of the emissions. General knowledge of the GWPs of the chemicals emitted is critical for distinguishing between processes emitting many tons of a low-GWP chemical and processes emitting a few tons (or kilograms) of a high-GWP chemical. While the CO_2-equivalent emissions of both processes may be the same, appropriate emission reduction strategies, and their cost effectiveness, may differ. As noted above, general information on the atmospheric lifetimes of emissions also helps to inform policies that focus on either short- or long-lived chemicals. Grouping by chemical structure is also consistent with current international conventions that address chemicals with impacts on the global atmosphere (e.g., UNFCCC, Montreal Protocol). Commenters supported the establishment of fluorinated GHG groups similar to those above.

In comments on the Options Memorandum, 3M expressed concern that reporting of emissions by generically identified process, emission type, and fluorinated GHG group could still disclose ''trade secret information.'' 3M was specifically concerned that such reporting could reveal the number and types of process steps associated with a product when a facility made only one product or when a facility added a product between one year and the next. In the former case, the commenter stated that a competitor could determine production throughput based on the CO_2e information that is reported under subpart OO. In the latter case, 3M argued that competitors could deduce the number of process steps associated with the new product or with manufacturing improvements by comparing reports between one year and the next. The commenter further stated that similar comparisons of data reported under subpart OO would yield information on the new product volume. Where manufacturing improvements changed the number of processes, 3M maintained that competitors could use this information to understand how the facility had changed its overall manufacturing process.

While the EPA takes these concerns very seriously, some of the commenter's concerns appear to stem from competitors' potential use of the subpart L data in combination with production volumes reported under subpart OO. Production volumes reported under subpart OO have been determined to be CBI [8] and therefore will not be publicly released by the EPA. In the absence of chemical-specific reporting or any identification of the product of each process, the EPA believes that the number of process steps, assuming this could be deduced from reporting, could not by itself reveal detailed information on manufacturing techniques. Moreover, where a facility produced multiple fluorinated gas products, changes in the number of processes reported from one year to the next could be caused either by the introduction of new products or by changes to the manufacturing techniques used to make current products, as pointed out by the commenter. The identity and number of products whose manufacturing techniques might have changed would remain unknown. Thus, the link between the changed number of process steps and any particular new product or improvement would be uncertain at best. The EPA requests comment on this issue, particularly on why or how the disclosure of the number of process steps would raise a concern (in the absence of data reported under subpart OO by product and facility, which will not be publicly released). Information that would be helpful to the Agency includes the specific information identified on page 81368 in the *Call for Information: Information on Inputs to Emission Equations Under the Mandatory Reporting of Greenhouse Gases Rule* (75 FR 81366, December 27, 2010).

If the concern regarding the number of process steps relates to the characterization of each process as a reaction, distillation, or packaging process, one option would be to drop this characterization and to identify the process only as a production process, a transformation process where no fluorinated GHG reactant is produced at another facility, or a transformation process where one or more fluorinated GHG reactants are produced at another facility. The process would still be tagged with a letter or number that could be used to identify it from year to year. One disadvantage of this approach is that it would not show whether or how emission levels varied by process subtype. It would, however, still provide information on how emission levels varied by process type. Going further, the identification of the process as a production process or as one of the two types of transformation processes could also be dropped. However, if facilities did not identify emissions that come from transformation processes that transform fluorinated GHGs produced at other facilities, we would lose our ability to distinguish between these ''downstream'' emissions and the ''upstream'' emissions that result from the production and transformation of fluorinated gases produced on site. This would interfere with our ability to analyze the impacts of upstream vs. downstream policies. Nevertheless, we would retain critical information on the magnitudes and trends of emissions from each process. We request comment on these options.

In the event that disclosing the number of process steps is demonstrated to be a concern even if processes are identified only by a letter or a number, the EPA is requesting comment on the option of requiring facilities to report total emissions, by fluorinated GHG

[8] 76 FR 30782; May 26, 2011.

group, only for each emission type (i.e., reporting facility-level emissions by fluorinated GHG group, distinguishing between vented and leaked emissions). This approach would maintain information on emissions type, but would not allow the EPA to identify processes with high or quickly changing emissions or to analyze reduction options. The EPA requests comment on this approach, particularly on whether any reduction in the sensitivity of the data that would be reported under it would justify the loss of the process-specific data that would be reported under the first option.

b. Reporting by Chemical at the Facility Level for Fluorinated GHGs With Emissions Above a Threshold

The second part of the proposed approach, reporting by chemical at the facility level, would supplement the process-specific reporting discussed above with chemical-specific reporting of fluorinated GHGs emitted from fluorinated gas production in quantities above a certain threshold. As explained in more detail below, the EPA is proposing a threshold of 1,000 $mtCO_2e$ but is seeking comment on other options. In general, reporting of emissions under the GHGRP is chemical-specific. For Part 98 generally, information on the identities and characteristics of GHGs is important for assessing their impacts on the atmosphere and informing policies that distinguish among chemicals based on their atmospheric lifetimes and GWPs.

For subpart L, information on the identities and characteristics of GHGs is particularly important. First, the range of GWPs and atmospheric lifetimes spanned by the fluorinated GHGs is large. Lifetimes range from a few days (e.g., for several unsaturated fluorocarbons) to thousands of years (e.g., for saturated perfluorocarbons), while GWPs range from less than one (e.g., for several unsaturated fluorocarbons) to above 20,000 (e.g., for SF_6). Often, the same fluorinated gas production facility may emit fluorinated GHGs at both ends of the GWP and lifetime ranges. Knowledge of the lifetimes of the chemicals is key to understanding how emissions from different processes would fit into policies that focus particularly on short-lived or long-lived GHGs.

Second, chemical-specific reporting at the facility level would provide a useful check on the CO_2e emissions reported at the process or process type level. Under today's proposed rule, facilities would report process-level emissions in CO_2e only, introducing the possibility of errors in the assignment of GWPs (either arithmetic or in the choice of the GWP). Chemical-specific reporting at the facility level would allow the EPA to apply the appropriate GWP to each chemical and verify that the CO_2e summed across chemicals matched the CO_2e summed across processes.

Third, fluorinated gas producers are a significant source for many fluorinated GHGs, and for some fluorinated GHGs, they are the only source. This makes them especially important in efforts to verify national and global emissions using atmospheric measurements. (Most fluorinated GHGs lack significant natural sources.)

Finally, chemical-specific reporting is consistent with GHG Inventory reporting under the United Nations Framework Convention on Climate Change (UNFCCC), which encourages chemical-specific reporting. Under the UNFCCC, other countries report chemical-specific emissions from comparable fluorinated gas production facilities. For example, in 2013 and previous years, Belgium's GHG inventory reported emissions from ''an electrochemical synthesis (electro-fluorination) plant, which emits, or has emitted SF_6, CF_4, C_2F_6, C_3F_8, C_4F_{10}, C_5F_{12} and C_6F_{14} as well as fluorinated greenhouse gases not covered by the Kyoto Protocol (among which CF_3SF_5, C_7F_{16}, C_8F_{18} and $C_8F_{16}O$).'' [9] From this plant, Belgium reported 2011 emissions of CF_4, C_4F_{10}, C_5F_{12}, and C_6F_{14} in tons of each gas. France and Italy have also reported chemical-specific emissions from their fluorinated gas production facilities.

In comments on the Options Memorandum and in discussions with the EPA, fluorinated gas producers stated that even at the facility level, chemical-specific reporting could disclose ''trade secret . . . information.'' Several producers cited the (relatively rare) case in which a fluorinated gas production facility produces only one final product, in which case facility-level information may be the same as process-specific information. One producer, 3M, noted that even for facilities producing multiple products, chemical-specific reporting at the facility level could provide information to competitors on process inputs since some of the chemicals could be unique and obviously attributable to a specific product.

On the other hand, 3M observed that for some facilities and under some reporting approaches, it was possible that chemical-specific reporting of certain chemicals would not be a concern. 3M pointed to Belgium's reporting of emissions from its electrochemical synthesis plant as an example. 3M observed that the plant reports chemical-specific emissions for certain fluorinated GHGs, including those covered by the Kyoto Protocol and the Intergovernmental Panel on Climate Change (IPCC).[10] However, the plant reports emissions of other fluorinated GHGs in aggregate as a separate group. (3M also stated that Belgium aggregates emissions from more than one fluorinated gas producer in its GHG inventory, although this is inconsistent with Belgium's description of the emissions in its National Inventory Report.)

While the EPA believes that reporting of chemical-specific emissions at the facility level would in most cases address the potential disclosure concerns described above associated with reporting of chemical-specific emissions at the process level, the EPA finds it plausible that in some cases, individual reporting of the full suite of emitted fluorinated GHGs at the facility level could disclose detailed process information. To address disclosure concerns associated with reporting all emissions by chemical while retaining information on fluorinated GHGs that are emitted in significant quantities, the EPA is proposing that facilities be required to report emissions of a fluorinated GHG by chemical when emissions of that fluorinated GHG exceed 1,000 $mtCO_2e$ for the facility as a whole. Emissions of fluorinated GHGs that do not exceed 1,000 $mtCO_2e$ would be reported by fluorinated GHG group at the facility level. This would reduce the number of speciated fluorinated GHGs that would be identified and would therefore reduce the chemical-specific information potentially available to competitors. During discussions between EPA and industry, one fluorinated gas producer indicated that chemicals emitted in quantities greater than one ton accounted for the vast majority of one facility's emissions, while accounting for a small fraction of the total number of chemicals emitted.[11]

[9] Belgium's Greenhouse Gas Inventory (1990–2011): National Inventory Report submitted under the United Nations Framework Convention on Climate Change and the Kyoto Protocol, p. 122, and Table 2(II)s2, Common Reporting Format (CRF) Tables submitted by Belgium, April 2013. See *http://unfccc.int/national_reports/annex_i_ghg_inventories/national_inventories_submissions/items/7383.php.*

[10] 3M may have meant the UNFCCC, which covers HFCs, PFCs, and SF6 but not other fluorocarbons.

[11] This producer was nevertheless concerned that a quantity threshold could reveal detailed process information because chemicals that fell below the

Continued

A cutoff of 1,000 $mtCO_2e$ correlates to a cutoff of 0.1 tons of fully fluorinated GHG (assuming a GWP of 10,000), 0.5 tons of saturated HFCs (assuming a GWP of 2,200), and 1,000 tons of unsaturated HFCs (assuming a GWP of 1). A GWP-weighted cutoff has the advantage of accounting for the potential atmospheric impact of each fluorinated GHG's emissions, but the EPA could also set the cutoff in terms of tons of chemical, e.g., at half a ton or one ton. The latter approach would be slightly simpler. Our goal would be to set any such cutoff at a level that would ensure we have chemical-specific information for the chemicals that are responsible for the bulk of CO_2-equivalent emissions from the facility. The EPA requests comment on the proposed magnitude of the cutoff.

Where a facility produces only one fluorinated gas, the EPA is proposing that it be required to report emissions only by fluorinated GHG group unless the emissions consist of a major fluorinated GHG constituent of the fluorinated GHG product and that product is sold or transferred to another person. In this case, the facility would be required to report emissions of the major fluorinated GHG constituents of the product, which the EPA proposes to define as constituents of the product that individually account for more than 1 percent of the product by mass. The EPA is proposing this exception because where products are sold or otherwise transferred to other persons, those persons, who could presumably include competitors, could identify the major constituents of the product simply by chemically analyzing it. Thus, identifying the chemical species of the major constituents of the product when they are emitted would not provide any additional information to competitors on the product or the methods used to produce it. The EPA is proposing to limit this reporting to major constituents because information on constituents that comprise less than 1 percent of the product is (1) more difficult to obtain through chemical analysis, and (2) more likely to disclose detailed information regarding reactants, intermediates, and by-products of the processes used to make the product. This is because such reactants, intermediates, and by-products may occur as low-concentration impurities in the product. The EPA requests comment on this proposal and on whether and how it might disclose detailed information about the process.

The EPA also requests comment on whether this exception from chemical-specific reporting should be expressed in terms of the number of processes at a facility rather than the number of products, since a facility that produced one fluorinated gas product but also transformed one or more fluorinated gases would be reporting emissions from multiple processes.

Possible interaction between reporting by chemical type at the process level and reporting by chemical at the facility level. If there is only one process at a facility that emits a particular chemical type, and if emissions of one or more of the chemicals in that chemical type exceed the 1,000 $mtCO_2e$ threshold, then reporting by chemical at the facility level would allow competitors to deduce at least a subset of the chemicals that are being emitted by that process. We request comment on whether this situation actually arises in practice. Various ways of reducing the probability of this situation include increasing the threshold for chemical-specific reporting (e.g., up to 10,000 $mtCO_2e$) and/or reducing the number of separate fluorinated GHG groups (e.g., to ''fully fluorinated GHGs, saturated HFCs and saturated HFEs, and other''). If the situation would still occur even with these changes, another way to address it would be to allow facilities that encounter it to report process-level emissions only as CO_2e, without any designation of the chemical type. Affected facilities would continue to report facility emissions by chemical. As discussed above, process-level information on chemical type is important because it provides insight into potential reduction options; thus, we would prefer not to pursue this last approach. However, reporting in CO_2e only would still permit us to understand the magnitudes and trends of emissions from each process. We request comment on the extent to which increasing the threshold for chemical-specific reporting and/or reducing the number of chemical types would address any revealing overlap between the chemicals reported at the facility level and chemical types reported at the process level. We also request comment on the option of allowing facilities affected by this overlap to report process-level emissions without identifying the chemical type emitted.

4. Proposal To Revise the Set of Default GWPs Used To Convert Fluorinated GHG Emissions Into CO_2e

The 2010 Final Rule and the temporary subpart L reporting provisions both include default GWPs that enable fluorinated gas production facilities to calculate and report emissions in CO_2e for fluorinated GHGs that are not on Table A–1. Such fluorinated GHGs account for approximately 20 percent of the CO_2e emissions reported under subpart L. The 2010 Final Rule includes one default GWP (2,000), while the temporary reporting provisions include two (10,000 for fully fluorinated GHGs; 2,000 for all other fluorinated GHGs).

We are proposing to replace these default GWPs with five default GWPs that would significantly increase the precision and accuracy of the CO_2e emissions calculated and reported under subpart L. The new default GWPs would also replace best-estimate GWPs that some facilities have used to report their CO_2e emissions under the subpart L temporary reporting provisions. The default GWPs would be calculated and assigned based on fluorinated GHG group, and would be included in a new Table L–1. The default GWPs would be based on the AR4 values for the compounds currently listed in Table A–1,[12] and, for fluorinated GHGs that are not included in Table A–1, on additional GWPs in the recent peer-reviewed literature, specifically the Comprehensive Review. As indicated by its name, the Comprehensive Review consolidates and updates the GWPs found in the peer-reviewed literature for numerous halogenated compounds, including approximately 100 fluorinated GHGs that are not included in Table A–1. The Comprehensive Review GWPs are likely to be the basis of updated GWPs in the IPCC Fifth Assessment Report (AR5), which is expected to be completed this year.

The default GWPs would be assigned to the fluorinated GHG groups the EPA is proposing for process-specific reporting: (1) Fully fluorinated GHGs, (2) saturated HFCs, (3) saturated HFEs and saturated HCFEs, (4) unsaturated PFCs, unsaturated HFCs, unsaturated HCFCs, unsaturated HFEs, and fluorinated ketones, and (5) other GHGs. The proposed default GWPs for these fluorinated GHG groups are listed in Table 2 of this preamble.

threshold one year and exceeded it the next would be identified in the second year, indicating that the scale or nature of one or more processes at the facility had changed. This concern is similar to the one expressed regarding the number of process steps being revealed by process-specific reporting, and EPA has similar questions regarding it.

[12] For sevoflurane, which is not included in AR4, they would be based on the Table A–1 value.

TABLE 2—DEFAULT GWPS PROPOSED FOR INCLUSION IN TABLE L–1 AS DEFAULT GWPS BY FLUORINATED GHG GROUP

Fluorinated GHG group	Proposed global warming potential (100 yr.)
Fully fluorinated GHGs	10,000
Saturated hydrofluorocarbons (HFCs)	2,200
Saturated hydrofluoroethers (HFEs) and saturated hydrochlorofluoroethers (HCFEs)	1,600
Unsaturated PFCs, unsaturated HFCs, unsaturated HCFCs, unsaturated HFEs, and fluorinated ketones	1
Other fluorinated compounds	100

As discussed in Section II.A.3.a of this preamble, the compounds within each group exhibit similar atmospheric lifetimes and radiative behavior, meaning that their GWPs fall into a relatively limited range. This permits default GWPs to be established with more precision than is possible with larger or more diverse sets of fluorinated GHGs.

For each group, we have taken the average GWP of the group, rounding it to one or two significant figures. For example, to determine the default GWP for fully fluorinated GHGs, we determined the average GWP of all fully fluorinated fluorocarbons in either the revised Table A–1, or, for compounds not included in the revised Table A–1, in the Comprehensive Review. The average GWP for the fully fluorinated fluorocarbons is equal to 9,857. This provided the default GWP of 10,000 for fully fluorinated compounds.

This approach is expected to result in an unbiased estimate of the GWP of each fluorinated GHG group because, at the present time, the GWPs of the fluorinated GHGs on Table A–1 are not expected to be any lower or higher, on average, than the GWPs of the fluorinated GHGs that are not on Table A–1. However, for the ''Other fluorinated GHG'' group, which is a ''catch-all'' category for fluorinated GHGs that do not fit into any other group, it is possible that newly synthesized types of compounds could have GWPs significantly different from the GWPs of the types of compounds that are currently in the group. Given this uncertainty, we are requesting comment on two alternatives. One option would be to establish a default GWP for this group that is equal to the average of the known GWPs of the current members of this group plus one standard deviation. This would result in a default GWP of 300 rather than 100 for the ''Other fluorinated GHG'' group. Another option would be to adopt a default GWP for this group based on the average of the GWPs of all fluorinated GHGs, i.e., 2000. This would recognize that the uncertainty associated with the GWPs of newly synthesized compound types may exceed that associated with the GWPs of the compound types currently identified as belonging to the ''other fluorinated GHG'' group. However, while adopting a GWP of 2000 would decrease the likelihood of underestimating the GWPs of new types of compounds, it would significantly overestimate the GWPs of the compound types that have been identified as belonging to this group to date.

For the group including very short-lived, unsaturated compounds, we are proposing to establish a default GWP of one to simplify calculations, although the average GWP for the group is actually 0.4.[13] Using a default GWP of one would lead to an overestimate of CO_2e emissions, but this overestimate would be extremely small in most cases. We request comment on this approach.

The EPA also requests comment on the sets of chemicals selected as the bases for the default GWPs. First, we are requesting comment on the fluorinated GHG groups proposed here. Do they capture most of the variability in GWPs exhibited by fluorinated GHGs? If not, what alternative fluorinated GHG groups would capture this variability? Could facilities easily determine to which fluorinated GHG group a particular fluorinated compound belonged?

Second, we are requesting comment on the individual chemicals whose GWPs are used to establish GWPs for each fluorinated GHG group. We are specifically interested in comments on how to treat compounds with relatively high or low GWPs for their groups (i.e., outliers). Within the group of fully fluorinated GHGs, relatively high GWPs are generally a consequence of a compound's radiative efficiency (or, more precisely, the ratio of the compound's radiative efficiency to its molecular weight), which is in turn influenced by the compound's inclusion of bonds other than C–F bonds (e.g., S–F or N–F bonds in SF_6, SF_5CF_3, and NF_3) or by a cyclic structure (as for c–C_3F_6). Within the other fluorinated GHG groups, relatively high-GWP compounds are those that are relatively long-lived, such as HFC–23 among the saturated HFCs and HFE–125 and HFE–134 among the saturated HFEs, while relatively low-GWP compounds are those that are short-lived, such as HFC–152a among the saturated HFCs.

To develop the proposed defaults, we have included outliers where we could not rule out the possibility that such outliers may also occur among the fluorinated GHGs whose GWPs we wish to estimate through the use of defaults. Thus, to estimate the default GWP for fully fluorinated GHGs, the EPA did not include SF_6 or NF_3, because the definition of ''fluorinated GHG'' does not include any other compounds whose radiatively important bonds consist exclusively of S–F or N–F bonds. However, we did include SF_5CF_3, because the definition of ''fluorinated GHG'' does include fluorocarbons, which may include S–F and N–F bonds in addition to C–F bonds. We also included cyclic fluorinated GHGs for the same reason. An analysis of how the default GWPs change based on the inclusion or exclusion of outliers (Analysis of Potential Default GWPs for Fluorinated GHGs Reported Under the GHGRP) is included in the docket for this rulemaking. For fully-fluorinated GHGs, the inclusion of SF_6 and NF_3 would increase the default from 10,000 to 11,000, while the exclusion of c–C3F6 would decrease the default to 9,000.

We are also requesting comment on whether fluorinated GHGs that contain chlorine should be included in the ''other fluorinated GHG'' group or in the fluorinated GHG groups in which chemically similar fluorinated GHGs that do not contain chlorine are included. While most chlorine-containing GHGs are regulated under the EPA's Stratospheric Ozone Protection Regulations and are therefore excluded from the definition of

[13] The Comprehensive Review rounded the GWPs of many short-lived compounds to ''1'' or ''0.'' In these cases, EPA calculated the exact GWP based on the radiative efficiency and atmospheric lifetime provided for the compound in the Comprehensive Review. The exact GWPs are included in ''Analysis of Potential Default GWPs for Fluorinated GHGs and HTFs Reported under the GHGRP.''

''fluorinated GHG'' (and the requirements of Subpart L), some chlorine-containing GHGs are included in the definition of ''fluorinated GHG.'' These include, for example, a few hydrochlorofluoroethers (HCFEs) and unsaturated hydrochlorofluorocarbons (HCFCs). In the future, other chlorine-containing fluorinated GHGs may be emitted (e.g., unsaturated chlorofluorocarbons and unsaturated hydrobromofluorocarbons). In developing the proposed default GWPs, we have included current chlorine-containing compounds in the same groups as similar compounds without chlorine (grouping HCFEs with HFEs and unsaturated HCFCs with unsaturated HFCs), because the atmospheric lifetimes and GWPs of the chlorine-containing compounds are similar to those of the similar compounds without chlorine. The alternative would be to include the chlorine-containing compounds in the ''Other fluorinated GHG group,'' but this approach would lead to the use of less accurate default GWPs for the chlorine-containing compounds.

As discussed above, the Comprehensive Review GWPs are likely to be the basis of the GWPs in the IPCC Fifth Assessment Report (AR5), which is expected to be completed this year. To the extent that AR5 updates or corrects the GWPs for some GHGs that are included in the Comprehensive Review (but are not included in Table A–1), we are proposing to use those updated values in our calculations of default GWPs for the final rule. (If AR5 includes GWPs rounded to zero, one, or two, we would use the corresponding updated radiative efficiencies and/or atmospheric lifetimes to calculate more precise updated GWPs and use those more precise GWPs to calculate the relevant default(s).) We request comment on this approach.

Differences between proposed default GWPs and the default GWPs in the subpart L temporary reporting provisions. The approach proposed in today's action differs from the approach taken under the temporary subpart L reporting provisions in two respects. First, the temporary subpart L reporting provisions give facilities the option to use their best estimate of a GWP for a compound lacking a GWP on Table A–1, as long as that estimate is based on the information described in 40 CFR 98.123(c)(1)(vi)(A)(*3*) and is documented. Under the approach proposed in this action, facilities and suppliers would not have this option, but would use the appropriate default GWP. Second, the temporary subpart L reporting provisions include default GWPs for just two fluorinated GHG groups, ''fully fluorinated GHGs'' and ''other,'' while this proposed rule includes five default GWPs for five fluorinated GHG groups.

There are several reasons why we are not proposing to allow facilities to use best-estimate GWPs in today's action. When we promulgated the temporary provisions, we had not collected as much information on the GWPs of fluorinated GHGs as we now have. Since we have collected this additional information and issued a NODA seeking public comment on potential chemical-specific GWPs, we now have a stronger basis for making generalizations regarding the atmospheric impacts of fluorinated GHG groups, particularly the five for which we are proposing default GWPs in this action. Dividing the set of fluorinated compounds into five rather than two sets also allows us to set default GWPs with more precision. Thus, the key reason for allowing facilities to develop and apply their own GWPs, which is that such estimates could be significantly more accurate and precise than default GWPs, no longer applies to the extent that it once did. Furthermore, the use of best-estimate GWPs has significant drawbacks.

These drawbacks include the lack of transparency of best-estimate GWPs to EPA and the public and the lack of consistency of best-estimate GWPs across facilities emitting the same chemical. These drawbacks were acceptable in the context of the temporary reporting provisions, which were intended only to provide interim emissions estimates while the EPA addressed the disclosure issues raised by commenters, but they pose significant concerns for long-term reporting. Under the temporary provisions, neither best-estimate GWPs nor the data and analysis used to support them are reported to the EPA; thus, the reliability of this data and analysis, and the accuracy of the resulting GWPs, are difficult to ascertain. This could lead to the use of poorly supported, incorrect GWPs. In addition, allowing facilities to use their own best estimates of GWPs could result in different facilities using different GWPs for the same compound, reducing the comparability of emissions estimates across facilities. In contrast, establishing consistent default GWPs for compounds for use by multiple facilities would allow the EPA to compare emissions across facilities and to better characterize emission trends.

Future Changes to Default GWPs. While the EPA would reserve the right to update the default GWPs as chemical-specific GWPs were evaluated or reevaluated for new or existing fluorinated GHGs in each fluorinated GHG group, we do not expect that such updates would be frequent. This is because the sets of fluorinated GHGs whose GWPs we are using as the basis for each default are relatively large, meaning that the addition or change of a few GWPs is not likely to have a large impact on the average.

5. Other Changes to Reporting Requirements

Categorization of Effective Destruction Efficiencies: In addition to the changes above, we are proposing to replace the requirements to report process-specific activity data (including the mass of product produced [14]), emission factors, and destruction efficiencies with a requirement to identify, as a range, the level by which the emissions of each process are reduced or controlled, e.g., by a destruction device. In the proposed Inputs rule, we proposed to remove the requirements to report process-specific activity data, emission factors, and destruction efficiencies; in this action we are proposing to remove the requirement to report the mass of product produced. As discussed in an analysis supporting the proposed Inputs rule (''Evaluation of Competitive Harm from Disclosure of ''Inputs to Equations'' Data Elements Deferred to March 31, 2015,'' available in Docket EPA–HQ–OAR–2010–0929), we have identified potential disclosure concerns associated with reporting of exact activity data, emission factors, and destruction efficiencies at the process level under subpart L.

With respect to subpart L, the proposed Inputs rule addresses the use of activity data, emission factors, and destruction efficiencies as inputs to emissions calculations. In addition to being used as inputs, these data elements provide information that is useful for policy analysis for the fluorinated gas production source category. Specifically, they help EPA to identify processes with a large potential for future reductions and reduction technologies that are highly effective. On the one hand, processes that are relatively uncontrolled are likely to have a larger potential for future reductions than those that are already highly controlled. On the other hand, high levels of control imply the use of highly effective reduction technologies. Destruction efficiencies indicate the

[14] Even if the mass of product produced is not used by a facility to estimate its emissions, it may be used in analyses of that facility's emission data to develop an ''implied emission factor'' that can be used to compare emission rates per mass of product produced across processes and facilities.

level of control directly, while emission factors (and the activity data from which such factors can be deduced) can do so indirectly (because very low emission factors often result from high levels of control). While the magnitude of emissions from a process may provide some indication of whether or not that process is controlled, this is not always the case. For example, large (i.e., high-production) processes that emit gases with very high GWPs may be controlled but still have higher CO_2e emissions than smaller, uncontrolled processes that emit gases with lower GWPs. The wide range of GWPs of the gases that are emitted from fluorinated gas production facilities introduce a source of uncertainty into data from these facilities that is generally absent from the data from other types of facilities.[15]

The proposed requirement for facilities to report, as a range, the level of control of each process would directly address this issue. We are proposing four ranges into which facilities would bin the level of control of processes. These ranges are shown in Table 3 of this preamble.

TABLE 3—PROPOSED RANGES FOR REPORTING REDUCTION LEVELS

[$mtCO_2e$]

Range of reductions	Range of uncontrolled emissions associated with emissions of 1,000 $mtCO_2e$
>99%	100,000 to >10,000,000 *.
95% to 99%	20,000 to 100,000.
75% to 95%	4,000 to 20,000.
0% to 75%	1,000 to 4,000.

* The 10 million figure assumes a reduction of 99.99 percent (e.g., destruction to ''four nines''); higher reduction percentages would lead to higher upper bounds.

The ranges are designed to provide useful information on the level of control for each process while also protecting detailed information regarding the mass of material removed from the process (e.g., as one or more by-products) and vented to the destruction device or atmosphere. Each range of reductions corresponds to a range of uncontrolled emissions that spans a factor of four or more, resulting in a large zone of uncertainty around the masses of vented process streams. At the same time, however, the ranges are small enough to distinguish between highly controlled processes, processes with intermediate levels of control, and processes that are relatively uncontrolled.

The uncertainty created by the ranges of reduction levels would be in addition to the uncertainty around the masses of vented process streams that would result from reporting emissions by fluorinated GHG group rather than by individual chemical. The GWPs for each fluorinated GHG group have relative standard deviations ranging from 40 percent (for fully fluorinated GHGs) to over 100 percent (for all the other fluorinated GHG groups), resulting in similar uncertainty ranges for chemical-specific emissions (both controlled and uncontrolled). Given the uncertainty associated with reporting by fluorinated GHG group, we are considering requiring facilities to report their precise level of reduction for each process rather than the range of that reduction. This would provide more detailed information regarding the reduction and may actually be simpler than placing the level of reduction in a range. One potential issue regarding this approach is that the level of uncertainty (around the masses of vented process streams) that results from reporting emissions by fluorinated GHG group is relatively low (i.e., a relative standard deviation of less than 50%) for some groups (e.g., fully fluorinated GHGs), which could result in disclosure concerns for facilities that make one product. We request comment on this alternative.

The EPA also considered requiring facilities to indicate simply whether or not each process is controlled. However, for processes that are completely uncontrolled, this approach raises issues similar to those raised by reporting the precise level of reduction. This is because, for uncontrolled processes, the level of reduction would be precisely specified as zero. In the approach we are proposing, a facility with uncontrolled emissions from a process would bin that process in the zero- to 75-percent controlled category, whose corresponding uncontrolled emissions span a factor of four. However, we request comment on requiring facilities to indicate only whether or not each process is controlled.

To calculate the level of reductions, we are proposing that facilities consider both the destruction efficiency (DE) and the downtime (or uptime) of the destruction device. Downtime can have a large impact on the effective destruction efficiency of destruction devices; for example, a device with a nominal DE of 99.99 percent that experiences 5 percent downtime will have an effective destruction efficiency of 95 percent. The level of reductions or effective destruction efficiency would be equated to one minus the ratio between the actual emissions from the process (i.e., accounting for any controls) and the uncontrolled emissions from the process (i.e., the emissions that would have occurred in the absence of controls), expressed in CO_2e. This calculation would not require facilities to gather any additional data, and we anticipate that it would be automated through the inputs verification tool, meaning that there would be essentially no additional burden associated with it for reporters. However, to the extent that some burden may exist, we request comment on the option of requiring reporting of effective destruction efficiencies only for processes with emissions over a certain threshold, e.g., 10,000 $mtCO_2e$.

Because we are proposing to remove the option to use the mass-balance approach, and because very few facilities have used this approach to date, our preference is not to require reporting of the effective destruction efficiency for processes whose emissions were estimated using the mass-balance approach. However, we request comment on this.

Reporting for scoping speciation. We are also proposing to remove the requirements that facilities report the contents, location, and function of the streams analyzed under the scoping speciation (40 CFR 98.124(a)). Facilities would simply keep records of this information as currently required under 40 CFR 98.127(b). We agree with the comments on the proposed CBI determinations that the contents of emitted streams, which we had proposed to be emission data, would reveal the same types of process information as would be revealed by chemical-specific reporting of process level emissions under 40 CFR 98.126. In view of this concern, we reviewed the role of this data element in the GHGRP. The contents, location, and function of tested streams provide background on emission estimates that is analogous to the background provided by emissions test data. (Facilities are currently required to keep records of, but not report, emissions test data under 40 CFR 98.127(d)(4).) This background information is important for ensuring that facilities have correctly complied with subpart L's monitoring requirements, but it is not essential to verify emission calculations or to inform policy. Thus, we are proposing to require recordkeeping as opposed to reporting of the contents, location, and function of tested streams, consistent with the approach we have taken with

[15] Note that reporting process emissions by chemical type would reduce but not eliminate this uncertainty.

emissions test data under 40 CFR 98.127(d)(4).

6. Reporting Emissions From Destruction of Previously Produced Fluorinated GHGs and From Venting of Residual Fluorinated GHGs From Containers

In addition to emissions from fluorinated gas production and transformation processes, facilities covered by subpart L are required to report emissions of each fluorinated GHG from destruction of previously produced fluorinated GHGs and from venting of residual fluorinated GHGs from containers (40 CFR 98.126(g) and (h)). The commenters did not include these data elements among those that they identified as posing a risk of revealing trade secrets or violating export control laws regulations. Therefore, the EPA is not proposing to amend the reporting of these emissions. The EPA notes that these data elements would include the identification of the fluorinated GHG products being destroyed or vented. As discussed above, competitors can assess the contents of a fluorinated gas producer's final products (unlike intermediates) simply by purchasing the products and analyzing their contents.

7. Submission of Full GHG Reports for Reporting Year 2011, 2012, and 2013

In the final rule published on August 24, 2012, the EPA deferred detailed reporting of reporting year (RY) 2011 and 2012 emissions under subpart L until March 31, 2014 (or, if the data element was deferred under the Inputs rule, until the date set forth for that data element at 40 CFR 98.3(c)(4)(vii) and Table A–7 of subpart A). In the Proposed 2013 Revisions Rule, we proposed to further defer detailed reporting of RY 2011, 2012, and 2013 emissions until March 31, 2015. Instead of requiring facilities to report their RY 2011, 2012, and 2013 emissions at the level of detail specified in the 2010 Final Rule, we are today proposing to require facilities to report those emissions at the level of detail specified in this rule.

When subpart L reporters submit their full annual reports for RY 2011, 2012, and 2013, we are also proposing to require them to report emissions using the Table A–1 GWPs in effect on the reporting deadline as specified in 40 CFR 98.3(b), and the default GWPs established through this rulemaking. This would ensure that the emissions reported under subpart L for RY 2011, 2012, and 2013 are based on the same GWPs as emissions reported for subsequent reporting years, avoiding the appearance of trends that are caused solely by inconsistent GWPs. In the Proposed 2013 Revisions Rule, the EPA proposed to apply the GWPs proposed in that rule to emissions reported for Reporting Years 2010, 2011, and 2012. However, as noted in the Proposed 2013 Revisions Rule, we cannot apply revised GWPs with any precision to the less detailed subpart L reports received under the August 24, 2012 rule that deferred full subpart L reporting, because those reports do not include chemical-specific emissions data (78 FR 19834).[16] Moreover, we are proposing that facilities submit RY 2011, 2012, and 2013 reports with the level of detail specified in this action. Since the subpart L facilities would be submitting their reports with the level of detail specified in this action, the incremental burden associated with applying the GWPs established in the 2013 Revisions Rule and in this rulemaking to the previously deferred RY 2011, 2012, and 2013 reports would be negligible, while the benefit, a consistent time series, would be considerable.

B. Proposal To Remove the Mass-Balance Approach From Subpart L

The 2010 Final Rule included three methods for calculating emissions of fluorinated GHGs from fluorinated gas production:

(1) The process-vent specific emission factor method, which requires facilities to conduct emissions testing to determine an emission factor for the vent;

(2) The process-vent specific emission calculation factor method, which requires facilities to use certain engineering calculation or assessment methods to calculate an emission factor for the vent and which may be applied to batch processes and to continuous process vents with emissions of less than 10,000 mtCO2e, and

(3) The mass-balance method, which requires facilities to track and measure the fluorine-containing compounds that are added to or removed from the process, including reactants, by-products and products, to determine emissions from the process.

We are proposing to remove the mass-balance method. As observed in the preamble to the 2009 proposed rule and 2010 Final Rule, the mass-balance method requires very precise and accurate concentration and flow measurements in order to provide a reasonably precise and accurate estimate of emissions. For this reason, facilities that wish to use the mass-balance method are required to review the accuracy and precision of their measurement systems and to calculate the absolute and relative errors of the estimates that they would develop using the mass-balance method. If these calculations show that the absolute and relative errors would fall above certain limits for a process, facilities are not allowed to use the mass-balance method for that process. However, at least one facility that believed it was eligible to use the mass-balance method calculated an impossible result (negative emissions) when it attempted to use this method. This indicates that the error limits (which should have prohibited such a result) may be difficult to calculate and apply. Without the error limits, the mass-balance method is not viable. Finally, only two facilities reporting emissions in 2012 or 2013 indicated that they had used the mass-balance method to estimate emissions from any process, and both facilities indicated that they were no longer using this method when contacted by the EPA. Thus, we do not expect that the removal of this method will result in a significant burden for subpart L reporters. However, we request comment on this issue, on the proposed removal of the mass-balance method, and on the rationale presented here.

Our intent is that facilities submitting reports in 2015 of RY 2011, 2012, 2013, or 2014 emissions estimated using the mass-balance method would be able to refer to its provisions even after it is removed from subpart L. We are proposing to revise subpart L to inform interested parties that the full text of the mass-balance method is available as part of the 2010 final rule (75 FR 74774, 74832–74837, 74843–74845). Another option would be to include the full text of the mass-balance method as an appendix to part 98. We are seeking comment on whether that option would have any advantages over referring interested parties to the 2010 final rule.

Because two facilities have used the mass-balance method to estimate their emissions during previous reporting years, we are proposing to retain certain reporting requirements associated with that approach (i.e., for purposes of reporting RY 2011, 2012, 2013, and 2014 emissions in 2015) as well as the corresponding recordkeeping requirements. However, we are proposing to remove several other reporting elements for the mass-balance method. In some cases, we are proposing to remove these elements because they involve reporting emissions by chemical and by process,

[16] Applying revised GWPs to the emissions reported under this proposed rule would also involve uncertainty, as many emitted chemicals are likely to fall under the proposed threshold for chemical-specific reporting.

and, as discussed above, we are proposing to replace such reporting with less detailed reporting under subpart L. The data elements that fall into this category include the masses and chemical formulas for the fluorinated GHG reactants, products, and by-products emitted. In other cases, we are proposing to remove these elements because they would no longer be useful given the proposed removal of the requirement to report associated data elements under the proposed Inputs rule. The data elements that fall into this category include the chemical formulas for the fluorine-containing reactant fed or removed, for the product produced or removed, and for the by-product removed; and the fractions of the mass emitted that consist of fluorine-containing reactants, products, and by-products.

C. Clarifications to the Emission Factor Approach of Subpart L

The EPA is proposing to amend subpart L to clarify that facilities using the emission factor approach to estimate their emissions are required, in future testing, to test for any fluorinated GHG identified in the scoping speciation, and to report emissions of all fluorinated GHGs that are identified in the scoping speciation. Emissions that fall below the detection limit of the measurement technology would be required to be reported at one half of that limit. (Note that if the emissions of a particular fluorinated GHG fell below 1,000 $mtCO_2e$ for the facility as a whole, those emissions would be reported in CO_2e only.) This change would be implemented by removing references to fluorinated GHGs that ''occur in more than trace concentrations'' and replacing them with references to fluorinated GHGs ''identified under the initial scoping speciation.''

As noted in the April 12, 2010 proposed rule, one of the purposes of the scoping speciation is ''to identify by-products to measure in subsequent emissions testing to develop emission factors'' (75 FR 18674). However, the regulatory text in the 2010 Subpart L Final Rule did not explicitly require facilities to include the fluorinated GHGs identified under the scoping speciation in the testing. This amendment would address that oversight. Due to the high GWPs of many fluorinated GHGs, even fluorinated GHGs that are emitted only at trace concentrations (i.e., in concentrations of less than 0.1 percent of the emissions stream) can account for significant CO_2e emissions from the facility. Thus, it is important to include them in emissions testing and emissions estimates.

Other proposed amendments to subpart L and proposed harmonizing amendments to subpart A. As discussed in Section II.A.4 of this preamble, the EPA is proposing to revise the set of default GWPs applied to fluorinated GHGs that do not have GWPs in Table A–1. To implement those changes, we are proposing additional revisions to subpart L. We are proposing a revision to 40 CFR 98.123(a) regarding the default GWPs that should be used when Table A–1 GWPs are not available for fluorinated GHGs emitted from a process. We are proposing to delete the use of a default GWP of 2,000 and proposing to add use of the appropriate default from Table L–1 for the fluorinated GHG group to which the compound would belong. We are proposing similar changes to 40 CFR 98.123(c)(1)(v) and 98.124(c)(2). We are also proposing to delete the last sentence in 40 CFR 98.123(a), which states that fluorinated GHGs should not be reported under 40 CFR 98.3(c)(4) of subpart A when the GWP is not listed in Table A–1.

In addition, we are proposing to remove and reserve 40 CFR 98.123(c)(1)(vi), which establishes a process under which facilities may request, for fluorinated GHGs whose GWPs are not included in Table A–1, to use provisional GWPs for their preliminary calculation of emissions under 40 CFR 98.123(c)(1). We established this process in recognition of the fact that the default GWP value that is currently provided for these calculations, 2000, would overestimate emissions from process vents in some cases, inappropriately requiring facilities to perform stack tests for these vents. With the establishment of five default GWPs, which would allow considerably more precise estimates of CO_2e emissions than the previous single default value of 2000, we have concluded that this provision would no longer be necessary. However, we request comment on this. If we were to retain the provision, we would amend it to replace the February 2011 due date for requests to use a provisional GWP with a more general due date that allows facilities to request provisional GWPs in the future. Specifically, facilities would be required to submit their requests by February 28 of the reporting year for those emissions they wish to estimate using the emission calculation factor approach.

We are also proposing a technical correction to Equation L–33 of subpart L. Equation L–33 is used to determine the mass of fluorinated GHG emitted from venting of residual fluorinated GHGs in containers, when pressure is the monitored parameter. Although the current Equation L–33 includes the appropriate basis for the estimate, i.e., a form of the ideal gas law, the equation is not solved for the desired variable, the mass of residual gas in the container, in kilograms. The EPA is proposing a new Equation L–33 that directly calculates this variable. Because the amended equation is based on the same input parameters as the current equation, the correction does not result in additional requirements.

In addition, the EPA is proposing a technical clarification to 40 CFR 98.124(c)(2) of subpart L. Paragraph (c)(2) includes a term or acronym, ''RSD,'' that is not defined within the rule. The EPA has added the term ''relative standard deviation (RSD)'' in the second sentence in 40 CFR 98.124(c)(2) to clarify the meaning of the term in the regulatory text.

We are also proposing changes to subpart A to harmonize subpart A reporting with subpart L reporting for fluorinated gas production facilities. These include changes to 40 CFR 98.2(b)(1), which establishes the set of gases to include in the threshold calculation, 40 CFR 98.2(b)(4), which includes Equation A–1 for calculating CO_2e, 40 CFR 98.3(c)(4)(iii)(E), which establishes the set of gases to include in annual reporting of emissions in tons of chemical, and 40 CFR 98.3(c)(4)(vi), which establishes the set of gases to include in annual reporting of emissions in CO_2e.

D. Overview and Approach to Proposed CBI Determinations

In this action, the EPA is proposing confidentiality determinations for each of the 15 reporting data elements proposed to be added or substantially revised, as previously discussed in Section II.A of this preamble. To make these determinations, the EPA is using the same approach that the EPA previously used for the 2011 final CBI rule (76 FR 30782, May 26, 2011). Specifically, the EPA is assigning each of these 15 data elements to one of 11 direct emitter data categories,[17] based on the type and characteristics of the data elements. For a description of each data category and the type and characteristics of data elements assigned to each category, see Sections II.C and II.D of the July 7, 2010 CBI proposal preamble (75 FR 39106–39130).

[17] Since subpart L is a direct emitter source category, the data elements are assigned to the direct emitter data categories.

Based on its evaluation of these 15 data elements, the EPA is proposing that each data element be assigned to one of the following direct emitter data categories:

- Emissions.
- Calculation Methodology and Methodological Tier.
- Facility and Unit Identifier Information.
- Unit/Process ''Static'' Characteristics that are Not Inputs to Emission Equations.
- Unit/Process Operating Characteristics That are Not Inputs to Emission Equations

In the 2011 final CBI rule (76 FR 30782, May 26, 2011), the EPA made categorical determinations that all data elements assigned to the ''Emissions,'' ''Calculation Methodology and Methodological Tier,'' and ''Facility and Unit Identifier Information'' data categories meet the definition of ''emission data'' in 40 CFR 2.301(a)(2)(i) and, thus, are not entitled to confidential treatment. Among the 15 proposed new or substantially revised reporting data elements, the EPA is proposing, as shown in Table 4A of this preamble, that seven data elements be assigned to the ''Emissions'' data category, four data elements be assigned to the ''Calculation Methodology and Methodological Tier'' category, and 1 data element be assigned to the ''Facility and Unit Identifier Information'' data category, thereby applying the categorical confidentiality determinations made for these categories in the 2011 final CBI rule to each of these reporting data elements. This proposal is not changing, nor soliciting comment on, the determination that these three data *categories* are ''emission data,'' as finalized in the 2011 CBI rule. Should the EPA finalize the category assignment for these data elements, they will be considered ''emission data'' and, as such, not entitled to confidential treatment.

TABLE 4A—DATA ELEMENTS PROPOSED TO BE ASSIGNED TO THE ''EMISSIONS,'' ''CALCULATION METHODOLOGY AND METHODOLOGICAL TIER,'' AND ''FACILITY AND UNIT IDENTIFIER INFORMATION'' DATA CATEGORIES

Proposed citation	Proposed new or substantially revised data element
	''Emissions'' Data Category
40 CFR 98.126(a)(3)	For facilities with multiple fluorinated gas products: For each generically-identified process and each fluorinated GHG group, total GWP-weighted emissions of all fluorinated GHGs in that group emitted from the process, in metric tons CO_2e.
40 CFR 98.126(a)(4)(i)	For facilities with multiple fluorinated gas products: For each fluorinated GHG with emissions of 1,000 metric tons of CO_2e or more from the facility as a whole, the total mass in metric tons of the fluorinated GHG emitted from the facility as a whole.
40 CFR 98.126(a)(4)(ii)	For facilities with multiple fluorinated gas products: Aggregated total GWP-weighted emissions of all other fluorinated GHGs by fluorinated GHG group for the facility as a whole, in metric tons of CO_2e.
40 CFR 98.126(a)(5)	For facilities that produce only one fluorinated gas product: Aggregated total GWP-weighted emissions of fluorinated GHGs by fluorinated GHG group for the facility as a whole, in metric tons of CO_2e.
40 CFR 98.126(a)(5)	Where facilities produce only one fluorinated gas product but emissions consist of a major fluorinated GHG constituent of that fluorinated gas product, and the product is sold or transferred to another person: Total mass in metric tons of each fluorinated GHG emitted that is a major fluorinated GHG constituent of the product.
40 CFR 98.126(c)(3)	For the emission factor and emission factor calculation method: For each fluorinated GHG group, the total GWP-weighted mass of all fluorinated GHGs in that group emitted from all process vents combined, in metric tons of CO_2e.
40 CFR 98.126(c)(4)	For the emission factor and emission factor calculation method: For each fluorinated GHG group, the total GWP-weighted mass of all fluorinated GHGs in that group emitted from equipment leaks, in metric tons of CO_2e.
	''Calculation Methodology and Methodological Tier'' Data Category
40 CFR 98.126(a)(2)(iv)	For each generically-identified fluorinated gas production and transformation process and each fluorinated GHG group at the facility: The methods used to determine the mass emissions of that fluorinated GHG group from that process from process vents.
40 CFR 98.126(a)(2)(v)	For each generically-identified fluorinated gas production and transformation process and each fluorinated GHG group at the facility: The methods used to determine the mass emissions of that fluorinated GHG group from that process from equipment leaks.
40 CFR 98.126(b)(1)	For the mass-balance approach: The overall absolute and relative errors calculated for the process under paragraph § 98.123(b)(1), in tons and decimal fraction, respectively.
40 CFR 98.126(b)(2)	For the mass-balance approach: The method used to estimate the total mass of fluorine in destroyed or recaptured streams (specify § 98.123(b)(4) or (15)).
	''Facility and Unit Identifier Information'' Data Category
40 CFR 98.126(a)(2)(i)	For each generically-identified production and transformation process at the facility: A number, letter, or other identifier for the process.

The EPA is proposing to assign two proposed new data elements to the ''Unit/Process 'Static' Characteristics that are Not Inputs to Emission Equations'' category and one proposed new data element to the ''Unit/Process Operating Characteristics That are Not Inputs to Emission Equations'' category. In the 2011 final CBI rule, the EPA determined that the data elements in these categories are not ''emission data'' (as defined at 40 CFR 2.301(a)(2)(i)). However, instead of categorical determinations, the EPA made confidentiality determinations for individual data elements assigned to these categories. In proposing these determinations, the EPA considered the confidentiality criteria at 40 CFR 2.208, in particular whether release of the data is likely to cause substantial harm to the business's competitive position. See 40 CFR 2.208(e)(1). The EPA is therefore following the same approach in this

action for the proposed new reporting elements assigned to these categories.

Table 4B of this preamble lists the proposed new data elements that the EPA proposes to assign to these data categories and presents the EPA's rationale for proposing to determine that none of these data elements qualifies as CBI.

TABLE 4B—PROPOSED CONFIDENTIALITY DETERMINATIONS FOR PROPOSED NEW DATA ELEMENTS ASSIGNED TO THE ''UNIT/PROCESS 'STATIC' CHARACTERISTICS THAT ARE NOT INPUTS TO EMISSION EQUATIONS'' AND THE ''UNIT/PROCESS OPERATING CHARACTERISTICS THAT ARE NOT INPUTS TO EMISSION EQUATIONS'' DATA CATEGORIES

Citation	Data element	Confidentiality determination	Proposed rationale for confidentiality determination
Unit/Process 'Static' Characteristics That Are Not Inputs to Emission Equations			
40 CFR 98.126(a)(2)(ii)	For each generically-identified production and transformation process at the facility: Indication of whether the process is a fluorinated gas production process, a fluorinated gas transformation process where no fluorinated GHG reactant is produced at another facility, or a fluorinated gas transformation process where one or more fluorinated GHG reactants are produced at another facility.	Not CBI	This data element would reveal only general information about the type of operation, which would not reveal any information about the production process (e.g., number of process steps, manufacturing efficiencies, novel productions methods) that would allow competitors to gain a competitive advantage.
40 CFR 98.126(a)(2)(iii)	For each generically-identified production and transformation process at the facility: Indication of whether the process could be characterized as reaction, distillation, or packaging.	Not CBI	This data element would reveal only a general description of the type of production process, which would not reveal any information about the process (e.g., number of process steps, manufacturing efficiencies, novel productions methods) that would allow competitors to gain a competitive advantage.
Unit/Process Operating Characteristics That Are Not Inputs to Emission Equations			
40 CFR 98.126(a)(7)	For each generically identified process, the range in Table L–1 that encompasses the effective destruction efficiency, $DE_{effective}$, calculated for that process using Equation L–35, based on CO2e.	Not CBI	This data element would place the effective destruction efficiency for the process in a range. For any given level of emissions, this range would correspond to a range of masses vented to the destruction device that spanned a factor of four or more. Thus, even if competitors had a rough estimate of the quantity of the product produced (e.g., from sources other than the GHGRP), this information would not reveal any information about the process (e.g., manufacturing efficiencies) that would allow competitors to gain a competitive advantage.

The EPA is requesting comment on two aspects of these confidentiality determinations. First, the EPA seeks comment on the proposed data category assignment for each of these data elements in Tables 4A and 4B. We specifically seek comments identifying which proposed new data elements may be incorrectly assigned, a detailed explanation of why they may be incorrectly assigned, and a recommendation regarding the data category to which they should be assigned.

Second, for those data elements assigned to the direct emitter data category without categorical confidentiality determinations (i.e., the data elements in Table 4B), the EPA seeks comment on the individual confidentiality determinations we are proposing for these data elements. We specifically request comment, including detailed rationale and supporting information, on whether the data element does or does not qualify for confidential treatment.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not increase information collection burden. These proposed amendments to subpart L reduce the level of detail with which emissions are reported and therefore could potentially reduce the reporting burden. The OMB has previously approved the information collection requirements for subpart L under 40 CFR part 98 under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.,* and has assigned OMB control number 2060–0629.

Further information on the EPA's assessment on the impact on burden can be found in the 2013 Amendments to the Greenhouse Gas Reporting Rule for the Fluorinated Gas Production Source Category Cost Memo in docket number EPA–HQ–OAR–2009–0927.

C. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a

significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of these proposed rule amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This rule affects fluorinated gas producers, none of which are small entities.

Further, the EPA took several steps to reduce the impact of 40 CFR part 98 on small entities when developing the final GHG Reporting Rules in 2009 and 2010. For example, the EPA determined appropriate thresholds that reduced the number of small businesses reporting. In addition, the EPA conducted several meetings with industry associations to discuss regulatory options and the corresponding burden on industry, such as recordkeeping and reporting. Finally, the EPA continues to conduct significant outreach on the GHG reporting program and maintains an ''open door'' policy for stakeholders to help inform the EPA's understanding of key issues for the industries.

D. Unfunded Mandates Reform Act (UMRA)

The proposed rule amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, the proposed rule amendments are not subject to the requirements of section 202 and 205 of the UMRA. This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. Facilities subject to the rule include fluorinated gas producers. None of the facilities currently known to undertake these activities is owned by a small government. Therefore, this action is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. For a more detailed discussion about how Part 98 relates to existing state programs, please see Section II of the preamble to the final Greenhouse Gas Reporting Rule (74 FR 56266, October 30, 2009).

The proposed amendments apply to facilities that produce fluorinated gases. They would not apply to governmental entities unless the governmental entity owns a facility that produces fluorinated gases. We are not aware of any governmental entities that would be affected. This regulation also does not limit the power of States or localities to collect GHG data and/or regulate GHG emissions. Thus, Executive Order 13132 does not apply to this action.

Although section 6 of Executive Order 13132 does not apply to this action, the EPA did consult with State and local officials or representatives of State and local governments in developing subpart L, promulgated on December 1, 2010. A summary of the EPA's consultations with State and local governments is provided in Section VIII.E of the preamble to the 2009 final rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between the EPA and State and local governments, the EPA specifically solicits comment on this proposed action from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). The proposed amendments apply to facilities that produce fluorinated gases. They would not have tribal implications unless the tribal entity owns a facility that produces fluorinated gases. We are not aware of any tribal facilities that would be affected. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113 (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the EPA decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, the EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment because it is a rule addressing information collection and reporting procedures.

List of Subjects in 40 CFR Part 98

Environmental protection, Administrative practice and procedure, Greenhouse gases, Reporting and recordkeeping requirements.

Dated: November 7, 2013.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, part 98 of title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 98—MANDATORY GREENHOUSE GAS REPORTING

■ 1. The authority citation for part 98 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart A—General Provision

■ 2. Section 98.2 is amended by revising paragraphs (b)(1) and (b)(4).

The revisions read as follows:

§ 98.2 Who must report?

* * * * *

(b) * * *

(1) Calculate the annual emissions of CO_2, CH_4, N_2O, and each fluorinated GHG in metric tons from all applicable source categories listed in paragraph (a)(2) of this section. The GHG emissions shall be calculated using the calculation methodologies specified in each applicable subpart and available company records. Include emissions of only those gases listed in Table A–1 of this subpart, except fluorinated gas production facilities must calculate and report CO_2e for all fluorinated GHGs whose emissions they are required to report under subpart L of this part. For fluorinated GHGs that are not included on Table A–1, fluorinated gas production facilities must use the default GWP provided in Table L–1 to subpart L of this part for the fluorinated GHG group of which the GHG is a member.

* * * * *

(4) Sum the emissions estimates from paragraphs (b)(1), (b)(2), and (b)(3) of this section for each GHG and calculate metric tons of CO_2e using Equation A–1 of this section.

$$CO_2e = \sum_{i=1}^{n} GHG_i \times GWP_i \quad \text{(Eq. A-1)}$$

Where:

CO_2e = Carbon dioxide equivalent, metric tons/year.

GHG_i = Mass emissions of each greenhouse gas, metric tons/year.

GWP_i = Global warming potential for each greenhouse gas from Table A–1 of this subpart. For each fluorinated GHG not listed in Table A–1, fluorinated gas production facilities reporting under subpart L of this part must use the default GWP provided in Table L–1 to subpart L of this part for the fluorinated GHG group of which the GHG is a member.

n = The number of greenhouse gases emitted.

* * * * *

■ 3. Section 98.3 is amended by revising paragraphs (c)(4)(iii)(E); and (c)(4)(vi).

The revisions read as follows:

§ 98.3 What are the general monitoring, reporting, recordkeeping, and verification requirements of this part?

* * * * *

(c) * * *

(4) * * *

(iii) * * *

(E) Each fluorinated GHG (as defined in § 98.6), including those not listed in Table A–1 of this subpart, except fluorinated gas production facilities must comply with § 98.126(a) rather than this paragraph (c)(4)(iii)(E).

* * * * *

(vi) When applying paragraph (c)(4)(i) of this section to fluorinated GHGs and fluorinated heat transfer fluids, calculate and report CO_2e for only those fluorinated GHGs listed in Table A–1 of this subpart, except fluorinated gas production facilities must calculate and report CO_2e for all fluorinated GHGs whose emissions they are required to report under subpart L of this part. For fluorinated GHGs that are not included on Table A–1 of this subpart, fluorinated gas production facilities must use the default GWP provided in Table L–1 to subpart L of this part for the fluorinated GHG group of which the GHG is a member.

* * * * *

Subpart L—Fluorinated Gas Production

■ 4. Section 98.122 is amended by:

■ a. Revising paragraph (c); and

■ b. Adding paragraphs (d), (e) and (f).

The revisions and additions read as follows:

§ 98.122 GHGs to report.

* * * * *

(c) *Process level.* You must report, for each fluorinated GHG group, the total GWP-weighted mass of all fluorinated GHGs in that group (in metric tons CO_2e) emitted from:

(1) Each fluorinated gas production process.

(2) Each fluorinated gas transformation process that is not part of a fluorinated gas production process and where no fluorinated GHG reactant is produced at another facility.

(3) Each fluorinated gas transformation process that is not part of a fluorinated gas production process and where one or more fluorinated GHG reactants are produced at another facility.

(d) *Facility level, multiple products.* If your facility produces more than one fluorinated gas product, you must report the emissions (in metric tons) for the facility as a whole of each fluorinated GHG that is emitted from the facility as a whole in quantities of 1,000 metric tons of CO_2e or more. Aggregate and report emissions of all other fluorinated GHGs by fluorinated GHG group for the facility as a whole, in metric tons of CO_2e.

(e) *Facility level, one product only.* If your facility produces only one fluorinated gas product, aggregate and report the GWP-weighted emissions of fluorinated GHGs by fluorinated GHG group for the facility as a whole, in metric tons CO_2e, with the following exception: Where emissions consist of a major fluorinated GHG constituent of a fluorinated gas product, and the product is sold or transferred to another person, report the total mass of each fluorinated GHG emitted that is a major fluorinated GHG constituent of the product (in metric tons).

(f) You must report the total mass of each fluorinated GHG emitted (in metric tons) from:

(1) Each fluorinated gas destruction process that is not part of a fluorinated gas production process or a fluorinated gas transformation process and all such fluorinated gas destruction processes combined.

(2) Venting of residual fluorinated GHGs from containers returned from the field.

■ 5. Section 98.123 is amended by:
■ a. Revising introductory text;
■ b. Revising paragraph (a);
■ c. Revising paragraph (b) introductory text;
■ d. Removing paragraphs (b)(1) through (b)(16);
■ e. Revising paragraph (c)(1)(v);
■ f. Removing and reserving paragraph (c)(1)(vi);
■ g. Redesignating paragraphs (e)(i) and (e)(ii) as paragraphs (e)(1) and (e)(2), respectively;
■ h. Revising paragraph (g)(1);
■ i. Revising paragraph (g)(2)(ii);
■ j. Revising paragraph (g)(2)(iv); and
■ k. Adding paragraph (h).

The revisions and additions read as follows:

§ 98.123 Calculating GHG emissions.

For fluorinated gas production and transformation processes, you must calculate the fluorinated GHG emissions from each process using the emission factor or emission calculation factor method specified in paragraphs (c), (d), and (e) of this section, as appropriate. For destruction processes that destroy fluorinated GHGs that were previously ''produced'' as defined at § 98.410(b), you must calculate emissions using the procedures in paragraph (f) of this section. For venting of residual gas from containers (e.g., cylinder heels), you must calculate emissions using the procedures in paragraph (g) of this section.

(a) *Default GWP value.* For fluorinated GHGs that do not have GWPs listed in Table A–1 to subpart A of this part, use the default GWP provided for the fluorinated GHG group of which the GHG is a member in Table L–1 of this subpart in your calculations under paragraph (c)(1) of this section, in § 98.124(c)(2), and if you used the mass balance method to calculate emissions from the process for reporting years 2011, 2012, 2013, or 2014.

(b) *Mass balance method.* The mass balance method was available for reporting years 2011, 2012, 2013, and 2014 only. It may be found at 75 FR 74774, 74832–74837 (December 1, 2010).

(c) * * *

(1) * * *

(v) *GWPs.* To convert the fluorinated GHG emissions to CO_2e, use Equation A–1 of § 98.2.

(vi) [Reserved]

* * * * *

(g) * * *

(1) *Measuring contents of each container.* If you weigh or otherwise measure the contents of each container before venting the residual fluorinated GHGs, use Equation L–32 of this section to calculate annual emissions of each fluorinated GHG from venting of residual fluorinated GHG from containers. Convert pressures to masses as directed in paragraph (g)(2)(ii) of this section.

$$E_{Cf} = \sum_{1}^{n} H_{Bfj} - \sum_{1}^{n} H_{Efj} \qquad \text{(Eq. L-32)}$$

Where:

E_{Cf} = Total mass of each fluorinated GHG f emitted from the facility through venting of residual fluorinated GHG from containers, annual basis (metric tons/year).

H_{Bfj} = Mass of residual fluorinated GHG f in container j when received by facility (metric tons).

H_{Efj} = Mass of residual fluorinated GHG f in container j after evacuation by facility (metric tons). (Facility may equate to zero.)

n = Number of vented containers for each fluorinated GHG f.

(2) * * *

(ii) *Measurement of residual gas.* The residual weight or pressure you use for paragraph (g)(1) of this section must be determined by monitoring the mass or the pressure of your cylinders/containers according to § 98.124(k). If you monitor the pressure, convert the pressure to mass using a form of the ideal gas law, as displayed in Equation L–33 of this section, with an appropriately selected Z value.

$$m_R = \frac{p * V * MW}{Z * R * T * 10^6} \qquad \text{(Eq. L-33)}$$

Where:

m_R = Mass of residual gas in the container (metric ton)

p = Absolute pressure of the gas (Pa)

V = Volume of the gas (m^3)

MW = Molecular weight of the fluorinated GHG f (g/gmole)

Z = Compressibility factor

R = Gas constant (8.314 Pa m^3/Kelvin mole)

T = Absolute temperature (K)

10^6 = Conversion factor (10^6 g/metric ton)

* * * * *

(iv) Calculate annual emissions of each fluorinated GHG from venting of residual fluorinated GHG from containers using Equation L–34 of this section.

$$E_{Cf} = \sum_{j=1}^{n} h_{fj} * N_{fj} * F_{fj} \qquad \text{(Eq. L-34)}$$

Where:

E_{Cf} = Total mass of each fluorinated GHG f emitted from the facility through venting of residual fluorinated GHG from containers, annual basis (metric tons/year).

h_{fj} = Facility-wide gas-specific heel factor for fluorinated GHG f (fraction) and container size and type j, as determined in paragraph (g)(2)(iii) of this section.

N_{fj} = Number of containers of size and type j returned to the fluorinated gas production facility.

F_{fj} = Full capacity of containers of size and type j containing fluorinated GHG f (metric tons).

n = Number of combinations of container sizes and types for fluorinated GHG f.

(h) *Effective destruction efficiency for each process.* If you used the emission factor or emission calculation factor method to calculate emissions from the process, use Equation L–35 to calculate

the effective destruction efficiency for the process, including each process vent:

$$DE_{Effective} = 1 - \frac{\sum_{1}^{w}\left(\sum_{1}^{o}\sum_{1}^{v} E_{PVf}\right)\times GWP_f}{\sum_{1}^{w}\left(\sum_{1}^{o}\sum_{1}^{v} ECF_{PV-Uf}\times\left(Activity_U + Activity_C\right)\right)\times GWP_f + \sum_{1}^{w}\left(\sum_{1}^{o}\sum_{1}^{v} EF_{PV-Uf}\times\left(Activity_U + Activity_C\right)\right)\times GWP_f}$$

(Eq. L-35)

Where:

$DE_{Effective}$ = Effective destruction efficiency for process i (fraction).

E_{PVf} = Mass of fluorinated GHG f emitted from process vent v from process i, operating scenario j, for the year, calculated in Equation L–21, L–22, L–26, or L–27 of this section (kg).

GWP_f = Global warming potential for each greenhouse gas from Table A–1 to subpart A of this part or Table L–1 of this subpart. If the GHG has a GWP listed in Table A–1, use that GWP. Otherwise, use the default GWP provided in Table L–1 for the fluorinated GHG group of which the GHG is a member.

ECF_{PV}_Uf = Emission calculation factor for fluorinated GHG f emitted from process vent v during process i, operating scenario j during periods when the process vent is not vented to the properly functioning destruction device, as used in Equation L–21; or Emission calculation factor for fluorinated GHG f emitted from process vent v during process i, operating scenario j, as used in Equation L–26 or L–27 (kg emitted/activity) (e.g., kg emitted/kg product), denoted as ''ECF_{PV}'' in those equations.

EF_{PV}_Uf = Emission factor (uncontrolled) for fluorinated GHG f emitted from process vent v during process i, operating scenario j, as used in in Equation L–22 (kg emitted/activity) (e.g., kg emitted/kg product).

$Activity_U$ = Total process feed, process production, or other process activity during the year for which the process vent is not vented to the properly functioning destruction device (e.g., kg product).

$Activity_C$ = Total process feed, process production, or other process activity for process i, operating scenario j, during the year for which emissions are vented to the properly functioning destruction device (i.e., controlled).

o = Number of operating scenarios for process i.

v = Number of process vents in process i, operating scenario j.

w = Number of fluorinated GHGs emitted from the process.

■ 6. Section 98.124 is amended by:

■ a. Revising paragraph (b) introductory text;

■ b. Removing paragraphs (b)(1) through (b)(8);

■ c. Revising paragraph (c)(1);

■ d. Revising paragraph (c)(2);

■ e. Revising paragraph (c)(5);

■ f. Redesignating paragraph (c)(7) as paragraph (c)(6);

■ g. Redesignating paragraph (c)(8) as paragraph (c)(7); and

■ h. Redesignating paragraph (c)(9) as paragraph (c)(8);

The revisions and additions read as follows:

§ 98.124 Monitoring and QA/QC requirements.

* * * * *

(b) Mass balance monitoring. Mass balance monitoring was available for reporting years 2011, 2012, 2013, and 2014 only. The mass balance monitoring provisions may be found at 75 FR 74774, 74843–74845 (December 1, 2010).

(c) * * *

(1) *Process vent testing.* Conduct an emissions test that is based on representative performance of the process or operating scenario(s) of the process, as applicable. Include in the emission test any fluorinated GHG that was identified in the initial scoping speciation or is otherwise known to occur in the vent stream. You may include startup and shutdown events if the testing is sufficiently long or comprehensive to ensure that such events are not overrepresented in the emission factor. Malfunction events must not be included in the testing. If you do not detect a fluorinated GHG that was identified in the scoping speciation or is otherwise known to occur in the vent stream, assume that fluorinated GHG was emitted at one half of the detection limit.

(2) *Number of runs.* For continuous processes, sample the process vent for a minimum of 3 runs of 1 hour each. If the relative standard deviation (RSD) of the emission factor calculated based on the first 3 runs is greater than or equal to 0.15 for the emission factor, continue to sample the process vent for an additional 3 runs of 1 hour each. If more than one fluorinated GHG is measured, the RSD must be expressed in terms of total CO_2e. For fluorinated GHGs whose GWPs are not listed in Table A–1 to subpart A of this part, use the default GWP provided for the fluorinated GHG group of which the GHG is a member in Table L–1 of this subpart in the RSD calculation.

* * * * *

(5) *Emission test results.* The results of an emission test must include the analysis of samples, number of test runs, the results of the RSD analysis, the analytical method used, determination of emissions, the process activity, and raw data and must identify the process, the operating scenario, the process vents tested, and the fluorinated GHGs that were included in the test. The emissions test report must contain all information and data used to derive the process-vent-specific emission factor, as well as key process conditions during the test. Key process conditions include those that are normally monitored for process control purposes and may include but are not limited to yields, pressures, temperatures, etc. (e.g., of reactor vessels, distillation columns).

* * * * *

■ 7. Section 98.126 is amended by:

■ a. Revising paragraph (a);

■ b. Revising paragraph (b) introductory text;

■ c. Revising paragraph (b)(1);

■ d. Removing paragraphs (b)(2)–(b)(12);

■ e. Revising paragraph (b)(13);

■ f. Redesignating paragraph (b)(13) as paragraph (b)(2);

■ g. Revising paragraph (c) introductory text;

■ h. Removing and reserving paragraph (c)(1);

■ i. Revising paragraph (c)(3);

■ j. Revising paragraph (c)(4);

■ k. Revising paragraph (e);

■ l. Revising paragraph (h)(1); and

■ m. Adding paragraph (k).

The revisions and additions read as follows:

§ 98.126 Data reporting requirements.

(a) *All facilities.* In addition to the information required by § 98.3(c), you must report the information in paragraphs (a)(2) through (a)(7) of this section according to the schedule in paragraph (a)(1) of this section, except

as otherwise provided in paragraph (j) of this section or in § 98.3(c)(4)(vii) and Table A–7 of subpart A of this part.

(1) *Frequency of reporting under paragraph (a) of this section.* The information in paragraphs (a)(2), (3), (4), (5), (6), and (7) of this section must be reported annually.

(2) *Generically-identified process.* For each production and transformation process at the facility, you must:

(i) Provide a number, letter, or other identifier for the process.

(ii) Indicate whether the process is a fluorinated gas production process, a fluorinated gas transformation process where no fluorinated GHG reactant is produced at another facility, or a fluorinated gas transformation process where one or more fluorinated GHG reactants are produced at another facility; and

(iii) Indicate whether the process could be characterized as reaction, distillation, or packaging (include all that apply).

(iv) For each generically-identified process and each fluorinated GHG group, report the methods used to determine the mass emissions of that fluorinated GHG group from that process from vents, i.e., mass-balance, process-vent-specific emission factor, or process-vent-specific emission calculation factor.

(v) For each generically-identified process and each fluorinated GHG group, report the method(s) used to determine the mass emissions of that fluorinated GHG group from that process from equipment leaks, unless you used the mass balance method for that process.

(3) *Process level, multiple products.* If your facility produces multiple fluorinated gas products, for each generically identified process and each fluorinated GHG group, report the total GWP-weighted emissions of all fluorinated GHGs in that group emitted from the process, in metric tons CO_2e.

(4) *Facility level, multiple products.* If your facility produces multiple fluorinated gas products, you must report the information in paragraphs (a)(4)(i) and (a)(4)(ii) of this section, as applicable.

(i) For each fluorinated GHG with emissions of 1,000 metric tons of CO_2e or more from the facility as a whole, you must report the total mass in metric tons of the fluorinated GHG emitted from the facility as a whole.

(ii) Aggregate and report the total GWP-weighted emissions of all other fluorinated GHGs by fluorinated GHG group for the facility as a whole, in metric tons of CO_2e.

(5) *Facility level, one product only.* If your facility produces only one fluorinated gas product, aggregate and report the total GWP-weighted emissions of fluorinated GHGs by fluorinated GHG group for the facility as a whole, in metric tons of CO_2e, with the following exception: Where emissions consist of a major fluorinated GHG constituent of a fluorinated gas product, and the product is sold or transferred to another person, report the total mass in metric tons of each fluorinated GHG emitted that is a major fluorinated GHG constituent of the product.

(6) *Destruction processes and container heel venting.* You must report the total mass in metric tons of each fluorinated GHG emitted from:

(i) Each fluorinated gas destruction process that is not part of a fluorinated gas production process or a fluorinated gas transformation process and all such fluorinated gas destruction processes combined.

(ii) Venting of residual fluorinated GHGs from containers returned from the field.

(7) *Effective destruction efficiency.* For each generically identified process, use Table L–2 of this subpart to report the range that encompasses the effective destruction efficiency, $DE_{effective}$, calculated for that process using Equation L–35 of this subpart. The effective destruction efficiency must be reported on a CO_2e basis.

(b) *Reporting for mass balance method for reporting years 2011, 2012, 2013, and 2014.* If you used the mass-balance method to calculate emissions for any of the reporting years 2011, 2012, 2013, or 2014, you must conduct mass balance reporting for that reporting year. For processes whose emissions were determined using the mass-balance method under the former § 98.123(b), you must report the information listed in paragraphs (b)(1) and (b)(2) of this section for each process on an annual basis.

(1) If you calculated the relative and absolute errors under the former § 98.123(b)(1), the overall absolute and relative errors calculated for the process under the former § 98.123(b)(1), in tons and decimal fraction, respectively.

(2) The method used to estimate the total mass of fluorine in destroyed or recaptured streams (specify the former § 98.123(b)(4) or (15)).

(c) Reporting for emission factor and emission calculation factor approach. For processes whose emissions are determined using the emission factor approach under § 98.123(c)(3) or the emission calculation factor under § 98.123(c)(4), you must report the following for each generically-identified process.

(1) [Reserved]

* * * * *

(3) For each fluorinated GHG group, the total GWP-weighted mass of all fluorinated GHGs in that group emitted from all process vents combined, in metric tons of CO_2e.

(4) For each fluorinated GHG group, the total GWP-weighted mass of all fluorinated GHGs in that group emitted from equipment leaks in metric tons CO_2e.

* * * * *

(e) *Reporting of destruction device excess emissions data.* Each fluorinated gas production facility that destroys fluorinated GHGs must report the excess emissions that result from malfunctions of the destruction device, and these excess emissions must be reflected in the fluorinated GHG estimates in the former § 98.123(b) and in § 98.123(c). Such excess emissions would occur if the destruction efficiency was reduced due to the malfunction.

* * * * *

(h) * * *

(1) The mass of the residual fluorinated GHG vented from each container size and type annually (metric tons).

* * * * *

(k) *Submission of complete reporting year 2011, 2012, and 2013 GHG reports.* By March 31, 2015, you must submit annual GHG reports for reporting years 2011, 2012, and 2013 that contain the information specified in paragraphs (a) through (h) of this section. The reports must calculate CO_2e using the GWPs in Table A–1 to subpart A of this part (as in effect on January 1, 2015) and Table L–1 of this subpart (as applicable). Prior submission of partial reports for these reporting years under paragraph (j) of this section does not affect your obligation to submit complete reports under this paragraph.

■ 8. Section 98.127 is amended by:
■ a. Revising paragraph (a)(1);
■ b. Revising paragraph (a)(2);
■ c. Adding paragraph (a)(3);
■ d. Adding paragraph (a)(4);
■ e. Revising paragraph (b);
■ f. Revising paragraph (c) introductory text; and
■ g. Revising paragraph (c)(3).

The revisions and additions read as follows:

§ 98.127 Records that must be retained.

* * * * *

(a) * * *

(1) Identify all products and processes subject to this subpart. Include the unit identification as appropriate, along with

the generic process identification reported for the process under § 98.126(a)(2)(i)through (iii); which product the process is associated with; whether the process is a reaction, distillation, or packaging process (include all that apply); and whether the process is a production process, a transformation process where no fluorinated GHG reactant is produced at another facility, or a transformation process where one or more fluorinated GHG reactants are produced at another facility.

(2) Monthly and annual records, as applicable, of all analyses and calculations conducted as required under § 98.123, including the data monitored under § 98.124, and all information reported as required under § 98.126.

(3) Identify all fluorinated GHGs with emissions of 1,000 metric tons CO_2e or more from the facility as a whole, and identify all fluorinated GHGs with total emissions less than 1,000 metric tons CO_2e from the facility as a whole.

(4) Calculations used to determine the total GWP-weighted emissions of fluorinated GHGs by fluorinated GHG group for each process, in metric tons CO_2e.

(b) *Scoping speciation.* Retain records documenting the information collected under § 98.124(a).

(c) *Mass-balance method.* Retain the following records for each process for which the mass-balance method was used to estimate emissions in reporting years 2011, 2012, 2013, or 2014. If you used an element other than fluorine in the mass-balance equation pursuant to the former § 98.123(b)(3), substitute that element for fluorine in the recordkeeping requirements of this paragraph.

* * * * *

(3) The data and calculations used to determine the fractions of the mass emitted consisting of each reactant (FER_d), product (FEP), and by-product (FEB_k), including the preliminary calculations in the former § 98.123(b)(8)(i).

* * * * *

■ 9. Section 98.128 is amended by:
■ a. Adding, in alphabetical order, the definition for Fluorinated GHG group;
■ b. Adding, in alphabetical order, the definition for Fluorinated GHG product;
■ c. Adding, in alphabetical order, the definition for Generically-identified process;
■ d. Adding, in alphabetical order, the definition for Major fluorinated GHG constituent;
■ e. Adding, in alphabetical order, the definition for Other fluorinated GHGs;
■ f. Adding, in alphabetical order, the definition for Saturated hydrochlorofluoroethers *(HCFEs)*;
■ g. Adding, in alphabetical order, the definition for Saturated hydrofluorocarbons *(HFCs)*;
■ h. Adding, in alphabetical order, the definition for Saturated hydrofluoroethers *(HFEs)*;
■ i. Adding, in alphabetical order, the definition for Unsaturated hydrochlorofluorocarbons *(HCFCs)*;
■ j. Adding, in alphabetical order, the definition for Unsaturated hydrofluorocarbons *(HFCs)*;
■ k. Adding, in alphabetical order, the definition for Unsaturated hydrofluoroethers *(HFEs)*; and
■ l. Adding, in alphabetical order, the definition for Unsaturated perfluorocarbons *(PFCs)*.

The additions read as follows:

§ 98.128 Definitions.

* * * * *

Fluorinated GHG group means one of the following sets of fluorinated GHGs: Fully fluorinated GHGs; Saturated hydrofluorocarbons; Saturated hydrofluoroethers and saturated hydrochlorofluoroethers; Unsaturated PFCs, unsaturated HFCs, unsaturated HCFCs, unsaturated HFEs, and fluorinated ketones; or Other fluorinated GHGs.

Fluorinated GHG product means the product of the process, including isolated intermediates.

* * * * *

Generically-identified process means a process that is (1) identified as a production process, a transformation process where no fluorinated GHG reactant is produced at another facility, or a transformation process where one or more fluorinated GHG reactants are produced at another facility; (2) further identified as a reaction, distillation, or packaging process, or a combination thereof; and (3) tagged with a discrete identifier, such as a letter or number, that remains constant from year to year.

* * * * *

Major fluorinated GHG constituent means a fluorinated GHG constituent of a fluorinated GHG product that occurs in concentrations greater than 1 percent by mass.

* * * * *

Other fluorinated GHGs means fluorinated GHGs that are none of the following: fully fluorinated GHGs, saturated hydrofluorocarbons, saturated hydrofluoroethers, saturated hydrochlorofluoroethers, unsaturated perfluorocarbons, unsaturated hydrofluorocarbons, unsaturated hydrochlorofluorocarbons, unsaturated hydrofluoroethers, or fluorinated ketones.

* * * * *

Saturated hydrochlorofluoroethers (HCFEs) means fluorinated GHGs in which two hydrocarbon groups are linked by an oxygen atom; in which two or more, but not all, of the hydrogen atoms in the hydrocarbon groups have been replaced by fluorine atoms and chlorine atoms; and which contain only single bonds.

Saturated hydrofluorocarbons (HFCs) means fluorinated GHGs that are hydrofluorocarbons and that contain only single bonds.

Saturated hydrofluoroethers (HFEs) means fluorinated GHGs in which two hydrocarbon groups are linked by an oxygen atom; in which one or more, but not all, of the hydrogen atoms in the hydrocarbon groups have been replaced by fluorine atoms; and which contain only single bonds.

* * * * *

Unsaturated hydrochlorofluorocarbons (HCFCs) means fluorinated GHGs that contain only carbon, chlorine, fluorine, and hydrogen and that contain one or more bonds that are not single bonds.

Unsaturated hydrofluorocarbons (HFCs) means fluorinated GHGs that are hydrofluorocarbons and that contain one or more bonds that are not single bonds.

Unsaturated hydrofluoroethers (HFEs) means fluorinated GHGs in which two hydrocarbon groups are linked by an oxygen atom; in which one or more, but not all, of the hydrogen atoms in the hydrocarbon groups have been replaced by fluorine atoms; and which contain one or more bonds that are not single bonds.

Unsaturated perfluorocarbons (PFCs) means fluorinated GHGs that are perfluorocarbons and that contain one or more bonds that are not single bonds.

* * * * *

■ 10. Adding Tables L–1 and L–2 to subpart L to read as follows:

TABLE L–1 TO SUBPART L—DEFAULT GLOBAL WARMING POTENTIALS FOR COMPOUNDS THAT DO NOT APPEAR ON TABLE A–1 TO SUBPART A OF PART 98

Fluorinated GHG group	Proposed global warming potential (100 yr.)
Fully fluorinated GHGs	10,000
Saturated hydrofluorocarbons (HFCs)	2,200
Saturated hydrofluoroethers (HFEs) and saturated hydrochlorofluoroethers (HCFEs)	1,600
Unsaturated PFCs, unsaturated HFCs, unsaturated HCFCs, unsaturated HFEs, and fluorinated ketones	1
Other fluorinated GHGs	100

TABLE L–2 TO SUBPART L—RANGES OF EFFECTIVE DESTRUCTION EFFICIENCY

Range of Reductions
≥99%
≥95% to <99%
≥75% to <95%
≥0% to <75%

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1990–0010; FRL–9902–80–Region 9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the El Toro Marine Corp Air Station Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region IX is issuing a Notice of Intent to Delete portions of the El Toro Marine Corp Air Station Superfund Site (Site) located in Irvine, California, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of California, through the California Department of Toxic Substances Control, have determined that all appropriate response actions at these identified parcels under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

This partial deletion pertains to all Site media, including soil and groundwater, of parcels I–A, II–A, III–A, II–J, II–Q, II–S, II–T, III–C, I–C, II–U, I–B, I–E, I–G, I–H, I–I, I–J, I–L, I–M, I–P, II–G, II–I, II–P, III–D, I–K, I–N, I–O, I–S, II–E, II–L, II–M, II–R, I–Q, I–R, II–B, II–K, and II–O. The remaining areas of the Site will remain on the NPL and are not being considered for deletion as part of this action. Maps identifying the area to be deleted and the area of the Site to remain on the NPL are available for review in the partial deletion docket.

DATES: Comments must be received by December 19, 2013.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1990–0010, by one of the following methods:

- *http://www.regulations.gov*. Follow on-line instructions for submitting comments.
- *Email: Aycock.Mary@epa.gov*.
- *Fax:* (415) 947–3528.
- *Mail:* Mary Aycock, U.S. EPA Remedial Project Manager, U.S. Environmental Protection Agency, Region IX, Mail Code SFD–8–1, 75 Hawthorne Street, San Francisco, CA 94105.
- *Hand delivery:* Mary Aycock, U.S. EPA Remedial project Manager, U.S. Environmental Protection Agency, Region IX, Mail Code SFD81, 75 Hawthorne Street, San Francisco, CA 94105. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1990–0010. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statue. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at:

Superfund Records Center, Mail Stop SFD–7C, 95 Hawthorne Street, Room 403, San Francisco, CA 94105. Phone: (415) 820–4700. Hours: Mon. thru Fri.—8 a.m. to 5 p.m.

Heritage Park Regional Library, Reference Section, 14361 Yale Street, Irvine, CA 92714. Phone: (949) 936–4040. Hours: Mon. thru Thu.—10 a.m. to 9 p.m., Sat.—10 a.m. to 5 p.m., Sun.—12 p.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mary Aycock, Remedial Project Manager, U.S. Environmental Protection Agency, Region IX, Mail Code SFD81, 75 Hawthorne Street, San Francisco, CA

94105, (415) 972–2389, email: *Aycock.Mary@epamail.epa.gov*.

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' Section of today's **Federal Register**, we are publishing a direct final Notice of Partial Deletion for portions of the El Toro Marine Corp Air Station Superfund Site without prior Notice of Intent for Partial Deletion because EPA views this as a noncontroversial revision and anticipates no adverse comment. We have explained our reasons for this partial deletion in the preamble to the direct final Notice of Partial Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this partial deletion action, we will not take further action on this Notice of Intent for Partial Deletion. If we receive adverse comment(s), we will withdraw the direct final Notice of Partial Deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Partial Deletion based on this Notice of Intent for Partial Deletion. We will not institute a second comment period on this Notice of Intent for Partial Deletion. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Partial Deletion which is located in the Rules section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: October 22, 2013.

Jared Blumenfeld,

Regional Administrator, Region IX .

[FR Doc. 2013–27723 Filed 11–18–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 84

[Docket No. CDC–2013–0017; NIOSH–250]

Development of Inward Leakage Standards for Half-Mask Air-Purifying Particulate Respirators

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Reopening of comment period.

SUMMARY: On September 17, 2013, the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) located within the Department of Health and Human Services (HHS) held a public meeting concerning inward leakage performance requirements for the class of NIOSH-certified non-powered air-purifying particulate respirators approved as half-facepiece respirators for protection from particulate-only hazards. The purpose of this meeting was to share information and to seek stakeholder feedback, in identified topic areas, concerning the development of inward leakage performance standards. Questions concerning the identified topics of specific interest were included in the meeting notice published in the **Federal Register** on September 4, 2013. Written comments were to be received by October 18, 2013. HHS/CDC received a request from a stakeholder for additional time to comment on this notice. In consideration of this request HHS/CDC is reopening the public comment period through December 31, 2013.

DATES: Stakeholder comments to the questions included in the notice of September 4, 2013 (78 FR 54432) must be received by 11:59 p.m. ET on December 31, 2013.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 4676 Columbia Parkway, Cincinnati, OH 45226.

Instructions: All submissions received must include the agency name (Centers for Disease Control and Prevention, HHS) and docket number (CDC–2013–0017; NIOSH–250). All relevant comments, including any personal information provided, will be posted without change to *http://www.regulations.gov.*

Docket: For access to the docket to read background documents and submitted comments, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Colleen Miller, NIOSH National Personal Protective Technology Laboratory (NPPTL), 626 Cochrans Mill Road, Pittsburgh, PA 15236; (412) 386–4956 (this is not a toll free number) or email *csmiller1@cdc.gov.*

SUPPLEMENTARY INFORMATION: Questions for stakeholders regarding the development of inward leakage performance standards for half-mask air-purifying particulate respirators were published in the **Federal Register** on September 4, 2013 (78 FR 54432).

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

[FR Doc. 2013–27445 Filed 11–18–13; 8:45 am]

BILLING CODE 4163–19–P

Notices

Federal Register
Vol. 78, No. 223
Tuesday, November 19, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 13, 2013.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by December 19, 2013 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Application for Payment of Amounts Due Persons Who Have Died, Disappeared or Declared Incompetent.

OMB Control Number: 0560–0026.

Summary of Collection: Representatives or survivors of persons who die, disappear, or are declared incompetent must be afforded a method of obtaining any payment intended for the person. 7 CFR part 707 provides that form, FSA–325, be used as the form of application for person desiring to claim such payments. It is necessary to collect information recorded on FSA–325 in order to determine whether representatives or survivors of a person are entitled to receive payments earned by a person who dies, disappears, or is declared incompetent before receiving the payments due.

Need and Use of the Information: FSA will collect information to determine if the survivors have rights to the existing payments or to the unpaid portions of the person's payments. Survivors must show proof of death, disappearance, or incompetency.

Description of Respondents: Individuals or households.

Number of Respondents: 2,000.

Frequency of Responses: Reporting: Other (when necessary).

Total Burden Hours: 3,000.

Title: Power of Attorney.

OMB Control Number: 0560–0190.

Summary of Collection: Individuals or authorized representatives of entities wanting to appoint another to act as their attorney-in-fact in connection with certain Farm Service Agency (FSA), Commodity Credit Corporation (CCC), and Risk Management Agency (RMA) programs, Federal Crop Insurance Corporation (FCIC), Natural Resources Conservation Service (NRCS) and related actions must complete a Power of Attorney form and Extension Sheet to accommodate additional signatures (FSA–211/211A). The FSA–211/211A serves as evidence that the grantor has appointed another to act on their behalf for certain FSA, CCC, FCIC, RMA, and NRCS programs and related actions giving the appointee legal authority to enter into binding agreements on the grantor's behalf.

Need and Use of the Information: FSA will collect information to verify an individual's authority to sign and act for another in the event of errors or fraud that requires legal remedies. The information collected on the FSA–211/211A is limited to the grantor's name, signature, and identification number, the grantee's name, address, and the applicable FSA, CCC, FCIC, NRCS, and RMA programs and actions.

Description of Respondents: Individuals or households.

Number of Respondents: 51,585.

Frequency of Responses: Reporting: Other (once).

Total Burden Hours: 64,256.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–27571 Filed 11–18–13; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 13, 2013.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by December 19, 2013 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs,

Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Cooperative Agricultural Pest Survey

OMB Control Number: 0579–0010

Summary of Collection: The Plant Protection Act (7 U.S.C. 3301 et. Seq.) authorizes the Secretary of Agriculture, either independently or in cooperation with States, to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests and noxious. The Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine (PPQ) along with the States and other agencies collects and manages data on plant pest, woods, and biological control agents through the Cooperative Agricultural Pest Survey (CAPS). The program allows the States and PPQ to conduct surveys to detect and measure the presence of exotic plant pests and weeds and to input surveillance data into a national computer-based system known as the National Agricultural Plant Information System (NAPIS).

Need and Use of the Information: APHIS will collect information using, cooperative agreements, pest detection surveys, and the USDA APHIS Specimens for Determination, PPQ Form 391, and other forms to predict potential plant pest and noxious weed situations and to promptly detect and respond to the occurrence of new pest and to record the location of those pest incursions that could directly hinder the export of U.S. farm commodities. If the information were not collected, it would seriously impact APHIS' ability to timely assist farmers, State personnel, and other involved in agriculture and protection of the environment in order to plan pest control measures, detect new outbreaks, and to determine the threat pose by migratory pests.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 54.

Frequency of Responses: Reporting; On occasion.

Total Burden Hours: 3,627.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–27562 Filed 11–18–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Management Unit, California, Heavenly Mountain Resort Epic Discovery Project

AGENCY: Lake Tahoe Basin Management Unit, Forest Service, USDA.

ACTION: Notice of intent to prepare a joint Environmental Impact Statement and Initial Study.

SUMMARY: The Epic Discovery Project is intended to enhance summer activities in response to the USDA Forest Service Ski Area Recreational Opportunity Enhancement Act of 2011. Heavenly Mountain Resort (Heavenly) proposes to improve year-round, recreation opportunities within the developed portions of the ski area on National Forest System lands using existing facilities and infrastructure to meet the expanding needs and expectations of visitors to Lake Tahoe, better support the year-round local economy of the South Lake Tahoe area, and connect a diverse group of visitors to our national forest with recreation and educational opportunities to further inspire passion and excitement for the outdoors. The summer activities are designed to suit a wide range of visitors from the casual sightseer to the avid mountain adventurer. A key component of the project proposal is a unique and comprehensive environmental education and interpretive component that is woven into the entire experience. This project is a joint project between the USDA Forest Service, Lake Tahoe Basin Management Unit (Forest Service), Tahoe Regional Planning Agency (TRPA), and California Regional Water Quality Control Board, Lahontan Region (Lahontan). The joint environmental document will use information taken where appropriate from the Heavenly Mountain Resort Master Plan Amendment Final EIR/EIS/EIS certified in 2007. The project is located at Heavenly within El Dorado and Alpine Counties, CA and Douglas County, NV, adjacent to South Lake Tahoe. The TRPA Governing Board will use the EIS/EIS/IS when they consider the amendment of the existing Ski Area Master Plan to add the Epic Discovery projects.

DATES: Submit comments on or before December 20, 2013.

The meeting dates are: Wednesday, December 4, 2013, 9:30 a.m., Stateline, NV; and Wednesday, December 18, 2013, 5:30 p.m. to 7:30 p.m., South Lake Tahoe, CA.

ADDRESSES: Please send your written comments to: Heavenly Epic Discovery Project, TRPA, P.O. Box 5310, Stateline, NV 89449, Attention: David Landry, or email: *dlandry@trpa.org.*

The meeting locations are:

1. TRPA Advisory Planning Commission Hearing, TRPA Board Rooms, 128 Market Street, Stateline, NV 89449.

2. Forest Service, Lake Tahoe Basin Management Unit, 35 College Drive, South Lake Tahoe, CA 96150.

FOR FURTHER INFORMATION CONTACT: Matt Dickinson, NEPA Contract Coordinator, USDA Forest Service Lake Tahoe Basin Management Unit, at (530) 543–2769 or *mattdickinson@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Purpose And Need for Action—As provided for in the Ski Area Recreational Opportunity Enhancement Act of 2011, Heavenly proposes to improve year-round recreation opportunities within the developed portions of the ski area on National Forest System lands using existing facilities and infrastructure to meet the expanding needs and expectations of visitors to Lake Tahoe, better support the year-round local economy in South Lake Tahoe area, connect a diverse group of visitors to our national forest with recreation and educational opportunities to further inspire passion and excitement for the outdoors.

Proposed Action—Located at the top of the Heavenly Gondola, Adventure Peak opened in the 2000/01 ski season and is the focus of Heavenly's non-skiing and family-oriented activities. In 2007, the Master Development Plan was amended to add more non-skiing activities across a wide area of the upper mountain, including the Adventure Peak area. The Epic Discovery proposal is consistent with and further refines the intent of the 2007 MDP and responds to visitor preferences and changes in sport technology. Since the creation of Adventure Peak, Heavenly has discovered that visitors to Lake Tahoe are increasingly seeking fun,

adventurous outdoor activities in a readily accessible environment. This extends to the winter, summer and shoulder seasons. Today, Adventure Peak represents an important component of the recreational activities at Heavenly, and provides visitors with a unique opportunity to access and explore the National Forest System lands of the Lake Tahoe Basin.

Adventure Peak will continue to serve as the primary access portal and hub for most of the proposed Epic Discovery activities. However, the Project will extend activities beyond Adventure Peak to provide natural resource-based recreation in the East Peak Lake Basin to the east and the Sky Meadows Basin to the west. All three activity centers will be linked by a combination of ski lifts, hiking trails, zip line or similar conveyances, and summer roads for the visitors' enjoyment and convenience.

The Forest Service will review and consider for decision certain activities contained in the proposal that lie outside of the Lake Tahoe Region (Carson River watershed), and are, therefore, not subject to the review and action by the Tahoe Regional Planning Agency. Similarly, the Tahoe Regional Planning Agency will review and consider for decision one proposed activity (the Forest Flyer Alpine Coaster), not currently accepted for review and decision by the Forest Service.

The following specific projects are proposed to help Heavenly fulfill its objective of making the resort a more diverse and encompassing year-round facility capable of meeting the seasonal needs of its guests.

- Mid Station Zipline Canopy Tour—Top of Gondola/Adventure Peak Area, An interpretive zipline canopy tour will be implemented in the area between the gondola mid-station and the top station to the east of the gondola alignment.
- Sky Cycle Canopy Tour—Top of Gondola/Adventure Peak Area, An aerial activity known as the Sky Cycle Canopy Tour will be implemented in an area between the gondola top station and the gondola mid-station to the west of the gondola alignment. It will allow visitors the opportunity to traverse the area by pedaling individual bicycle-like devices that are suspended from a cable in the air.
- Forest Flyer Alpine Coaster—Top of Gondola/Adventure Peak Area, The Forest Flyer Alpine Coaster is an activity that allows users on individual sleds to descend on a raised track through the forest and natural rock formations. The Forest Flyer is proposed to be located a short distance to the north and west of the existing tubing lift.
- Infill Activities—Top of Gondola/Adventure Peak Area, A number of smaller individual activities will be sited in and around the existing and proposed activities to infill between the larger activities and create a critical mass of activities. The infill activities include interpretive trails, interactions with interpretive specialists, disc golf, a smaller-scaled zipline or ropes course, gold/gem panning, a mountain bike skills park and bouldering-type activities for children.
- Mountain Bike Park—East Peak Lake Basin, A new mountain bike park will be located in the East Peak Basin area. It will be lift-served and utilize the Comet Express and the Big Easy lifts. The park will include a combination of existing summer roads and new single-track type trails. It will be approximately 9–10 miles in total length. New trails will be four feet wide with a one-foot wide shoulder on either side for a total cross-section width of six feet.
- East Peak Zipline Canopy Tour—East Peak Lake Basin, A multi-stage guided zipline canopy tour will begin near the top of the Big Easy lift and end with a zip over East Peak Lake near the base of the Dipper Express lift. It will generally traverse the hillside between Von Schmidt's Trail and the East Peak Lodge and Lake.
- East Peak Lake Water Activities—East Peak Lake Basin, Water-oriented activities on and around the existing East Peak reservoir will include kayaking, canoeing, other small boats without engines and fishing.
- Interpretive Activities at East Peak Lodge—East Peak Lake Basin, The existing East Peak Lodge and Deck will be seasonally converted into an interpretive education center. It will continue to provide restrooms, First Aid and food and beverage services. No other physical modifications to the lodge or deck are planned.
- East Peak Lodge Hiking Trail—East Peak Lake Basin, A new segment of hiking trail will be implemented that connects the Top of the Gondola area with East Peak Lodge. It will allow visitors the opportunity to hike back and forth between the two activity centers. It will be built to Forest Service trail standards.
- Sky Meadows Zipline Canopy Tour—Sky Meadows Basin, A multi-stage guided zipline canopy tour will begin near the top of the Tamarack Express lift and end near the base of Sky Express lift. It will generally traverse the hillside known as the Ski Ways. It will be similar in nature to the Mid-Station Zipline Canopy Tour, however, it will take advantage of a different landscape type and slope condition to provide a uniquely different experience for users. It will consist of a series of canopy-level ziplines between platforms constructed in and around existing trees or using a pre-fabricated steel pole if a suitable tree does not exist in the vicinity.
- Sky Meadows Ropes Course—Sky Meadows Basin, A self-guided ropes course consisting of a series a series of platforms and rope walkways/bridges will be located between Sky Deck and the base of the Sky Express lift. It will incorporate existing mature trees into the layout. Where a suitable tree is not available along the route to support a landing platform, individual steel or wooden columns may be installed to support the platform.
- Ridge Run Lookout Tower and Observation Deck—Sky Meadows Basin, Develop a new observation tower near the existing Ridge Run Overlook. It will resemble a historic Forest Service Fire Lookout Tower and used for scenic views and interpretive education regarding the Forest Service's historic and modern role in managing the forests, including fire. The tower will be approximately 400–500 square feet in area and a maximum of 25–30 feet in height and will offer views of High Meadows and Free! Peak as well as Lake Tahoe.
- Interpretive Activities at Sky Deck—Sky Meadows Basin, The existing Sky Deck facility will provide a small interpretive education center, restrooms, First Aid and food and beverage facility. The existing facility will be seasonally modified to provide information and exhibits. No other physical modifications to the lodge or deck are necessary.
- Mountain Excursion Tour—Top of Gondola/Adventure Peak Area, East Peak Lake Basin, and Sky Meadows Basin, A Mountain Excursion Tour will connect the three activity centers and will offer guided tours to various locations around the upper mountain. It will consist of Heavenly operated vehicles that will make continuous loops to pick up and drop off visitors at each center. They are intended to provide an enjoyable connection between the centers in a vehicle that is appropriate for mountain travel.
- Connecting Hiking Trails Between Activities—Connecting hiking trails between the activities will be developed to facilitate safe and efficient movement by visitors between the activities. The trails will be laid out in the field and constructed consistent with Forest Service trail standards for this type of use. Interpretive opportunities along the

trails will be included in specific locations.

• Mountain Bike Trail Connectors—Two separate mountain bike connections are planned. They will be free of charge and open to the general public as key connections to the larger network of trails in and around Heavenly and the surrounding public lands. The first trail connection is intended to connect the East Peak Mountain Bike Park to the Tahoe Rim Trail. The second trail connection is intended to connect the mountain to Heavenly Village.

• Emergency Gondola Snow Cat Evacuation Route—Gondola Alignment, In order to safely evacuate the gondola during emergency situations, Heavenly proposes to selectively clear trees at a limited number of strategic access points located from the Gondola Mid-Station down along the gondola line for emergency snow cat access. The access route will only be used in times of operational emergencies and will not be used on a regular basis.

Maps and a more specific project description can be found on the LTBMU Web site at: *http://www.fs.usda.gov/ltbmu.*

Possible Alternatives—In order to address substantive issues identified during scoping, project alternatives may be considered and developed by lead agency staff, following completion of the public scoping period. If necessary, the alternatives shall fulfill the identified purpose & need for action while addressing one or more significant issues related to the proposed project.

Preliminary Issues/Potential Environmental Effects—Potential environmental effects and impacts will be explored during project scoping and during preparation of the EIS/EIS/IS. In addition to the potential environmental effects outlined below, the EIS/EIS/IS will analyze the full range of resource topics required by the lead agencies (e.g., noise, land use), cumulative impacts, and attainment of the TRPA Environmental Threshold Carrying Capacities.

Cumulative Watershed Effects/Water Quality. The EIS/EIS/IS will evaluate potential water quality impacts associated with the proposed projects that focus on Heavenly Valley Creek where a TMDL is in place for suspended sediment and Daggett Creek watersheds where a majority of the projects are sited.

Biological Resources. The EIS/EIS/IS will evaluate potential impacts to sensitive plant and wildlife species (e.g., American marten, Tahoe draba, Whitebark pine) known to occupy habitat within the Heavenly special use permit boundary. The evaluation will also address potential effects to migratory birds, noxious weeds/invasive species, and Forest Service management indicator species.

Scenic Resources. The EIS/EIS/IS will evaluate potential impacts to designated TRPA and Forest Service scenic resources and from viewpoints within adjacent recreational sites (e.g., Van Sickle State Park).

Transportation and Parking. Using trip generation methodology developed for the Project, the EIS/EIS/IS will evaluate potential impacts to US Highway 50, local roadways and intersections during peak hour traffic conditions. The analysis will discuss the Project's parking needs and identify strategies to accommodate new demand.

Air Quality and Climate Change. Using results from the transportation analysis, the EIS/EIS/IS will evaluate potential impacts to applicable air quality standards and greenhouse gas emissions.

Recreation. The EIS/EIS/IS will evaluate potential impacts to existing recreation resources that may occur from the expansion of summer uses at Heavenly. Specifically, the analysis will identify whether the Project may affect recreational quality and opportunities (including changes to person at one time capacity) available on National Forest System lands.

Scoping Process

This NOP/NOI initiates the scoping process, which guides the development of the EIS/EIS/IS. It is important that reviewers provide their comments at such times and in such a manner that they are useful in the lead agency's preparation of this EIS/EIS/IS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. However, comments submitted anonymously will also be accepted and considered. If applicable, responses should include the name of a contact person at your agency or organization.

Comments concerning the scope of the analysis must be received by December 20, 2013. The draft EIS/EIS/IS is expected in August 2014 and the final EIS/EIS/IS in January 2015. Two public scoping meetings are being held to provide you with an opportunity to learn more about the proposed action and to express oral comments about the content of the EIS/EIS/IS, in addition to providing opportunity to submit written comments. The scalping meetings will be held at the times and locations listed in the **DATES** and **ADDRESSES** section above.

This project will follow the new objection procedures as directed by 36 CFR 218. The objection process provides an opportunity for members of the public who have participated in opportunities for public participation provided throughout the planning process to have any unresolved concerns receive an independent review by the Forest Service prior to a final decision being made by the responsible official. Only those who provided specific written comments during opportunities for public comment are eligible to file an objection.

Dated: November 12, 2013.

Jeff Marsolais,

Deputy Forest Supervisor, Lake Tahoe Basin Management Unit.

[FR Doc. 2013–27495 Filed 11–18–13; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket No. NRCS–2013–0006]

Notice of Meeting of the Agricultural Air Quality Task Force

AGENCY: Natural Resources Conservation Service (NRCS), United States Department of Agriculture (USDA).

ACTION: Notice of Meeting.

SUMMARY: The Agricultural Air Quality Task Force (AAQTF) will meet to continue discussions on critical air quality issues in relation to agriculture. Special emphasis will be placed on obtaining a greater understanding about the relationship between agricultural production and air quality. The meeting is open to the public, and a draft agenda is included in this notice.

DATES: The AAQTF meeting will convene at 8:00 a.m. on Wednesday and Thursday, December 4–5, 2013, and conclude at 5:00 p.m. each day. A public comment period will be held on December 5. Individuals wishing to make oral presentations should contact Greg Johnson at (503) 273–2424 or email: *greg.johnson@por.usda.gov* no later than November 22 and bring 35 copies of any material they would like distributed to the meeting.

Written material intended for AAQTF member consideration prior to the

meeting must be received by Greg Johnson, Designated Federal Official, USDA, NRCS, 1201 Lloyd Boulevard, Suite 1000, Portland Oregon 97232 no later than November 26, 2013.

ADDRESSES: The meeting will be held at USDA Log Lodge, 302 Log Lodge Road, Beltsville, Maryland 20705.

FOR FURTHER INFORMATION CONTACT: Questions and comments should be directed to Dr. Greg Johnson, Designated Federal Official, USDA, NRCS, 1201 Lloyd Boulevard, Suite 1000, Portland, Oregon 97232; telephone: (503) 273–2424; fax: (503) 273–2401; or email: *greg.johnson@por.usda.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2. Additional information concerning AAQTF, including any revised agendas for the December 4–5, 2013, meeting that occurs after this **Federal Register** Notice is published, may be found at: *www.nrcs.usda.gov/wps/portal/nrcs/detail/national/air/taskforce.*

Draft Agenda

Meeting of the AAQTF

December 4–5, 2013

A. Welcome remarks and introductions
B. Review of AAQTF history and purpose
C. USDA Climate Change Program Office update
D. Update on agricultural air quality regulatory issues at EPA
E. AAQTF strategies and goals for 2013–2015
F. AAQTF subcommittee formation and meetings
G. Updates from USDA agencies (FS, NRCS, NIFA, and ARS)
H. Selected agricultural air quality research presentations
I. Public Input (time will be reserved, most likely on the second day, to receive public comments. Individual presentations will be limited to 5 minutes).

The timing of events in the agenda is subject to change to accommodate changing schedules of expected speakers or extended discussions.

Procedural

This meeting is open to the public. At the discretion of the Chair, members of the public may provide oral presentations during the meeting. Those persons wishing to make oral presentations should notify Greg Johnson no later than November 22, 2013. Those wishing to distribute written materials at the meeting (in conjunction with spoken comments) must bring 35 copies of the materials with them. Written materials for distribution to AAQTF members prior to the meeting must be received by Dr. Johnson no later than November 26, 2013.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, please contact Greg Johnson). USDA prohibits discrimination in its programs and activities on the basis of race, color, national origin, gender, religion, age, sexual orientation, or disability. Additionally, discrimination on the basis of political beliefs and marital or family status is also prohibited by statutes enforced by USDA. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternate means for communication of program information (Braille, large print, audio tape, etc.) should contact the USDA's Target Center at (202) 720–2000 (voice and TDD).

Signed this 8th day of November 2013, in Washington, DC.

Jason A. Weller,

Chief, Natural Resources Conservation Service.

[FR Doc. 2013–27567 Filed 11–18–13; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by January 21, 2014.

FOR FURTHER INFORMATION CONTACT: Michele L. Brooks, Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave. SW., STOP 1522, Room 5162-South Building, Washington, DC 20250–1522. Telephone: (202) 690–1078, FAX: (202) 720–8435 or email: *michele.brooks@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for extension.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to:

Michele L. Brooks, Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave. SW., Washington, DC 20250–1522. Telephone: (202) 690–1078, FAX: (202) 720–8435 or email *michele.brooks@wdc.usda.gov*.

Title: Assistance to High Energy Cost Rural Communities.

OMB Control Number: 0572–0136.

Type of Request: Revision of a currently approved collection.

Abstract: The Rural Electrification Act of 1936 (RE Act) (7 U.S.C. 901 *et seq.*) was amended in November 2000 to create a new program to help rural communities with extremely high energy costs (Pub. L. 106–472). Under the new section 19 of the RE Act (7 U.S.C. 918a), the Secretary of Agriculture through RUS, is authorized to provide financial assistance through the following three funding streams:

• *High Energy Cost Grants and Loans.* RUS may provide grants and loans for energy generation, transmission, and distribution facilities serving communities with average home energy costs in excess of 275 percent of the national average. Many of the communities are in rural Alaska, but there are other eligible areas nationwide. Eligible applicants include persons, State agencies (including Territories), entities organized under

State law, and Indian Tribes. Only grant funds have been appropriated to date.

• *Denali Commission Grants and Loans.* RUS may provide grants and loans to the Denali Commission, a Federal agency, for energy generation, transmission, and distribution facilities serving extremely high energy cost rural and remote communities in Alaska. Annual Denali grants are awarded and advanced as soon as funds are available to RUS. The Denali Grants are governed by a Memorandum of Understanding between the two agencies and by individual Grant Agreements. Only grant funds have been appropriated to date for the Denali Commission.

• *Bulk Fuel Revolving Fund Grants.* RUS may provide grants to State entities in existence as of November 9, 2000, to support revolving loan funds to improve the efficiency of fuel purchases for communities where the fuel cannot be delivered by surface transportation. Only Alaska and a handful of other States are eligible.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3.18 hours per response.

Respondents: Business or other for-profit, not-for-profit institutions, State, Local, or Tribal Government.

Estimated Number of Respondents: 112.

Estimated Number of Responses per Respondent: 2.82.

Estimated Total Annual Burden on Respondents: 1,004.

Copies of this information collection can be obtained from Rebecca Hunt, Program Development and Regulatory Analysis, at (202) 205–3660, FAX: (202) 720–8435 or email: *rebecca.hunt@wdc.usda.gov*.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: November 8, 2013.

John Charles Padalino,

Administrator, Rural Utilities Service.

[FR Doc. 2013–27702 Filed 11–18–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Golden Valley Electric Association: Healy Power Plant Unit #2 Restart

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of a Record of Decision.

SUMMARY: The Rural Utilities Service (RUS) has issued a Record of Decision (ROD) for the Supplemental Final Environmental Impact Statement (SFEIS) related to RUS's consideration of potential agency actions that would facilitate a proposal from Golden Valley Electric Association, Inc. (GVEA) for the restart and commercial operation of Healy Unit #2, a power generation facility at the Healy Power Plant (Healy Plant) in Healy, Alaska. The SFEIS was prepared in accordance with the National Environmental Policy act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality's (CEQ's) regulations implementing NEPA (40 CFR parts 1500–1508), and RUS's Environmental Policies and Procedures (7 CFR part 1794). The SFEIS updated a Final Environmental Impact Statement (FEIS) prepared by the Department of Energy (DOE) in 1993.

ADDRESSES: To obtain copies of the ROD or for further information, contact: Deirdre M. Remley, Environmental Protection Specialist, RUS, Water and Environmental Programs, Engineering and Environmental Staff, 1400 Independence Avenue SW., Stop 1571, Washington, DC 20250–1571, Telephone: (202) 720–9640 or email: *deirdre.remley@wdc.usda.gov*. The ROD is also available at RUS's Web site at *http://www.rurdev.usda.gov/UWP-HealyPowerPlan.html* or you may contact Ms. Remley for a hard copy.

SUPPLEMENTARY INFORMATION: Healy Unit #2 is currently owned by the Alaska Industrial and Export Authority (AIDEA), but is located on GVEA land. Unit #2 was built to work in conjunction with Healy Unit #1, a generation unit that has been owned and operated by GVEA since 1967. Unit #2 is currently in warm layup and has not generated power since 2000. GVEA proposes to purchase Unit #2, prepare it for commercial production, and operate the unit for the remainder of its operational life. GVEA is seeking administrative actions and financing from RUS to facilitate the restart of Unit #2 and for improvements to the Healy Plant, which include installing additional emissions control to both Unit #1 and Unit #2. Unit #1 is a 25 MW coal-fired boiler and Unit #2 is a 50 MW coal-fired boiler that was constructed in the late 1990s with funding from DOE and AIDEA.

The decision documented in RUS's ROD is that RUS agrees to consider, subject to additional engineering and financial review, administrative actions and financing that would facilitate GVEA's restart of Unit #2 at the Healy Power Plant. Details regarding RUS' regulatory authority, rationale for the decision, and compliance with applicable regulations are included in the ROD.

RUS published an NOI in the **Federal Register** on January 3, 2013, which described the Proposed Action (78 FR 285). RUS published a notice in the **Federal Register** on June 10, 2013 announcing the availability of the SFEIS and initiating the 30-day public comment period for the SFEIS (78 FR 34639). A copy of the SFEIS was sent to the U.S. Environmental Protection Agency for review and comment. Two comments were received on the SFEIS and they are addressed in the ROD.

RUS has considered and concurred with GVEA's purpose and need for the proposal to restart Unit #2, and RUS has evaluated the potential impacts of this proposal on the human environment and finds that the SFEIS is consistent with Federal regulations and meets the standard for an adequate statement. The Proposed Action to facilitate the restart of Unit #2 of the Healy Plant is RUS's selected alternative.

Dated: November 11, 2013.

John Charles Padalino,

Administrator, USDA, Rural Utilities Service.

[FR Doc. 2013–27655 Filed 11–18–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Membership of the Departmental Performance Review Board

AGENCY: Department of Commerce.

ACTION: Notice of Membership on the Departmental Performance Review Board.

SUMMARY: In accordance with 5 U.S.C., 4314(c)(4), Department of Commerce (DOC) announces the appointment of persons to serve as members of the Departmental Performance Review Board (DPRB). The DPRB provides an objective peer review of the initial performance ratings, performance-based pay adjustments and bonus recommendations, higher-level review requests and other performance-related actions submitted by appointing authorities for Senior Executive Service (SES) members whom they directly supervise, and makes recommendations based upon its review. The term of the new members of the DPRB will expire December 31, 2015.

DATES: *Effective Date:* The effective date of service of appointees to the Departmental Performance Review Board is based upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: Denise A. Yaag, Director, Office of

Executive Resources, Office of Human Resources Management, Office of the Director, 14th and Constitution Avenue NW., Washington, DC 20230, (202) 482–3600.

SUPPLEMENTARY INFORMATION: The names and position titles of the members of the DPRB are set forth below by organization:

Department of Commerce

Departmental Performance Review Board Membership

2013–2015

Office of the Secretary
- Theodore C.Z. Johnston, Director, Office of White House Liaison

Office of General Counsel
- Barbara S. Fredericks, Assistant General Counsel for Administration
- Elise B. Packard, Chief, General Law Division
- Barry K. Robinson, Chief Counsel for Economic Affairs

Office of the Chief Financial Officer and Assistant Secretary for Administration
- Gordon T. Alston, Director, Financial Reporting and Internal Controls
- Tammy L. Journet, Deputy for Procurement Management, Policy and Performance Excellence
- Michael E. Phelps, Director, Office of Budget
- Frederick E. Stephens, Deputy Assistant Secretary for Administration

Bureau of Industry and Security
- Gay G. Shrum, Director of Administration

Bureau of the Census
- Douglas R. Clift, Senior Advisor for Project Management
- Michael L. Palensky, Chief, Acquisition Division
- Nancy Potok, Deputy Director

Economics and Statistics Administration
- Kenneth A. Arnold, Associate Under Secretary for Management
- Joanne Buenzli Crane, Associate Director for Administration and Chief Financial Officer

Economics and Development Administration
- Thomas Guevara, Deputy Assistant Secretary for Regional Affairs

International Trade Administration
- Kenneth J.E. Hyatt, Deputy Under Secretary for International Trade
- Maureen R. Smith, Deputy Assistant Secretary for Manufacturing and Services

Minority Business Development Agency
- Alejandra Y. Castillo, Deputy Director
- Edith J. McCloud, Associate Director for Management

National Oceanic and Atmospheric Administration
- Holly A. Bamford, Assistant Administrator for Ocean Services and Coastal Zone Management
- Edward C. Horton, Chief Administrative Officer
- Joseph F. Klimavicz, Chief Information Officer and Director of High Performance Computing and Communications
- Mark S, Paese, Deputy Assistant Administrator, NESDIS
- Lois J. Schiffer, General Counsel, NOAA
- Holly A. Bamford, Assistant Administrator for Ocean Services and Coastal Zone Management
- Russell F. Smith, III, Deputy Assistant Secretary for International Fisheries

National Technical Information Service
- Bruce E. Borzino, Director, National Technical Information Service

National Telecommunications and Information Administration
- Leonard M. Bechtel, Chief Financial Officer and Director for Administration

National Institute of Standards and Technology
- Richard F. Kayser, Jr., Chief Safety Officer
- Mary H. Saunders, Associate Director for Management Resources

Dated: November 8, 2013.

Denise A. Yaag,

Director, Office of Executive Resources.

[FR Doc. 2013–27522 Filed 11–18–13; 8:45 am]

BILLING CODE 3510–BS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–925; A–428–841]

Sodium Nitrite From Germany and the People's Republic of China: Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On July 1, 2013, the Department of Commerce (''the Department'') initiated the first sunset reviews of the antidumping duty (''AD'') orders on sodium nitrite from Germany and the People's Republic of China (''PRC'') pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). Based on the notice of intent to participate and adequate substantive response filed by the domestic interested party, and the lack of response from any respondent interested party, the Department conducted expedited (120-day) sunset reviews of these AD orders, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). As a result of these sunset reviews, the Department finds that revocation of the AD orders would likely lead to continuation or recurrence of dumping, at the levels indicated in the ''Final Results of Sunset Reviews'' section of this notice.

DATES: Effective: November 19, 2013.

FOR FURTHER INFORMATION CONTACT: Lori Apodaca or Howard Smith, AD/CVD Operations, Office 4, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4551 or (202) 482–5193, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 27, 2008, the Department published the AD orders on sodium nitrite from Germany and the PRC.[1] On July 1, 2013, the Department published the notice of initiation of the first sunset reviews of the AD orders on sodium nitrite from Germany and the PRC, pursuant to section 751(c) of the Act.[2] On July 11, 2013 and July 12, 2013, pursuant to 19 CFR 351.218(d)(1), the Department received timely and complete notices of intent to participate in the sunset reviews for both orders from General Chemical LLC, a domestic producer of sodium nitrite. On July 30, 2013, pursuant to 19 CFR 351.218(d)(3), General Chemical LLC filed a timely and adequate substantive response for both orders. The Department did not receive substantive responses from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited (120-day) sunset reviews of the AD orders on sodium nitrite from Germany and the PRC.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[3] Therefore, all deadlines in this segment of the proceeding have been extended

[1] *See Sodium Nitrite from the Federal Republic of Germany and the People's Republic of China: Antidumping Duty Orders,* 73 FR 50593 (August 27, 2008).

[2] *See Initiation of Five-Year (''Sunset'') Review,* 78 FR 39256 (July 1, 2013).

[3] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (October 18, 2013).

by 16 days. The revised deadline for the final results of this sunset review is now November 14, 2013.

Scope of the Orders

The merchandise subject to these orders is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by these orders may or may not contain an anti-caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. The chemical composition of sodium nitrite is NaNO2 and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name ''sodium nitrite'' to sodium nitrite. The CAS registry number is 7632–00–0.

While the HTSUS subheading, CAS registry number, and CAS name are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

Analysis of Comments Received

A complete discussion of all issues raised in these sunset reviews is provided in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice. *See* ''Issues and Decision Memorandum for the Expedited First Sunset Reviews of the Antidumping Duty Orders on Sodium Nitrite from the Germany and the People's Republic of China,'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice (''I&D Memorandum''). The issues discussed in the I&D Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the dumping margins likely to prevail if the orders are revoked. The I&D Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). Access to IA ACCESS is available in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the I&D Memorandum can be accessed at *http://www.trade.gov/ia/.* The signed I&D Memorandum and the electronic versions of the I&D Memorandum are identical in content.

Final Results of Sunset Reviews

The Department determines that revocation of the AD orders on sodium nitrite from Germany and the PRC would be likely to lead to continuation or recurrence of dumping, with the following dumping margin magnitudes likely to prevail:

Exporter/producer	Weighted-average percentage margin
PRC:	
PRC-Wide Entity	190.74
Germany:	
BASF AG	237.00
All Others	150.82

Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: November 12, 2013.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2013–27719 Filed 11–18–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–917]

Laminated Woven Sacks From the People's Republic of China: Final Results of the Expedited Sunset Review of the Countervailing Duty Order

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* November 19, 2013.

SUMMARY: On July 1, 2013, the Department of Commerce (Department) initiated a sunset review of the countervailing duty order on laminated woven sacks from the People's Republic of China (PRC). The Department finds that revocation of this countervailing duty (CVD) order would be likely to lead to the continuation or recurrence of net countervailable subsidies at the rates in the ''Final Results of Review'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Toni Page, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1398.

SUPPLEMENTARY INFORMATION:

Background

The CVD order on laminated woven sacks from the PRC was published on August 7, 2008.[1] On July 1, 2013, the Department initiated a sunset review of the order, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] The Department received notices of intent to participate from Coating Excellence International, LLC, Exopack Holding Corp., Graphic Packaging International, Inc., Hood Packaging Corporation, Polytex Fibers Corporation, and SeaTac Packaging Manufacturing Corporation (collectively, the Laminated Woven Sacks Committee or ''the Committee'') within the deadline specified in 19 CFR 351.218(d)(1)(i). The Department received an adequate substantive response to the notice of initiation from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). The Department received no substantive responses from the Government of the PRC (GOC) or any Chinese producers or exporters.

19 CFR 351.218 (e)(1)(ii)(A) states that the Department will normally conclude that respondent interested parties have provided adequate response to a notice of initiation where it receives complete substantive responses from respondent interested parties accounting on average for more than 50 percent, on a volume basis (or a value basis, if appropriate), of the total exports of the subject merchandise to the United States over the five calendar years preceding the year of publication of the notice of initiation. Moreover, in a sunset review of a CVD order, the Department will normally conduct a full review only if it receives adequate responses from domestic and respondent interested parties and a complete substantive

[1] *See Laminated Woven Sacks From the People's Republic of China: Countervailing Duty Order,* 73 FR 45955 (August 7, 2008).

[2] *See Initiation of Five-Year (''Sunset'') Reviews,* 78 FR 39256 (July 1, 2013).

response from the foreign government.[3] Because the Department received no responses from the GOC and respondent interested parties, the Department is conducting an expedited (120-day) sunset review of the CVD order on laminated woven sacks from the PRC pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2).

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[4] Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. The revised deadline for the final results of this sunset review is November 14, 2013.

Scope of the Order

The merchandise covered by this order is laminated woven sacks which are bags or sacks consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip, regardless of the width of the strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene (BOPP) or to an exterior ply of paper that is suitable for high quality print graphics. A full description of the scope of the order is contained in the Decision Memorandum, which is hereby adopted by this notice.[5]

Analysis of Comments Received

All issues raised in this sunset review are addressed in the Decision Memorandum. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of a countervailable subsidy and the net countervailable subsidy likely to prevail if the order was revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://trade.gov/enforcement/* and in the Central Records Unit in room 7046 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/*. The signed Decision Memorandum and electronic versions of the Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 752(b)(1) and (3) of the Act, the Department determines that revocation of the CVD order on laminated woven sacks from the PRC would be likely to lead to continuation or recurrence of countervailable subsidies at the following net countervailable subsidy rates:

Manufacturers/ exporters/producers	Net countervailable subsidy (percent)
Zibo Aifudi Plastic Packaging Co., Ltd.	83.34% *ad valorem*.
Han Shing Chemical Co., Ltd.	277.54% *ad valorem*.
Ningbo Yong Feng packaging Co., Ltd.	277.54% *ad valorem*.
Shandong Shouguang Jianyuan Chun Co., Ltd./Shandong Longxing Plastic Products Company Ltd.	406.62% *ad valorem*.
Shandong Qilu Plastic Fabric Group, Ltd.	358.20% *ad valorem*.
All others	280.65% *ad valorem*.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

The Department is issuing and publishing these final results and this notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act.

Dated: November 12, 2013.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2013–27706 Filed 11–18–13; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See* 19 CFR 351.218(e)(2) and 351.218(e)(1)(ii)(B) and (C).

[4] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (October 18, 2013).

[5] *See* ''Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Countervailing Duty Order on Laminated Woven Sacks from the People's Republic of China,'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice (Decision Memorandum).

DEPARTMENT OF COMMERCE

International Trade Administration

Renewable Energy and Energy Efficiency Advisory Committee

AGENCY: International Trade Administration, U.S. Department of Commerce

ACTION: Notice of an open meeting.

SUMMARY: The Renewable Energy and Energy Efficiency Advisory Committee (RE&EEAC) will hold a meeting on December 3, 2013. The meeting is open to the public and the room is disabled-accessible. Public seating is limited and available on a first-come, first-served basis.

DATES: December 3, 2013, from 9:00 a.m. to 5:00 p.m. Eastern Standard Time (EST). Members of the public wishing to attend the meeting must notify Ryan Mulholland at the contact information below by 5:00 p.m. EST on Wednesday, November 27, 2013, in order to pre-register for clearance into the building. Please specify any requests for reasonable accommodation at least five business days in advance of the meeting. Last minute requests will be accepted, but may be impossible to fill.

ADDRESSES: The meeting will be held at the U.S. Department of Commerce, Room 4830, 1401 Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ryan Mulholland, Office of Energy and Environmental Industries (OEEI), International Trade Administration, U.S. Department of Commerce at (202) 482–4693; email: *ryan.mulholland@trade.gov.* This meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to OEEI at (202) 482–4693.

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Commerce established the RE&EEAC pursuant to his discretionary authority and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) on July 14, 2010. The RE&EEAC was re-chartered on June 18, 2012. The RE&EEAC provides the Secretary of Commerce with consensus advice from the private sector on the development and administration of programs and policies to enhance the international competitiveness of the U.S. renewable energy and energy efficiency industries.

The December 3, 2013 meeting of the RE&EEAC will consist of presentations from four subcommittees—finance, U.S. competitiveness, trade policy, and trade promotion—on each subcommittee's work thus far, particularly a

presentation on potential recommendations. The full Committee will review the work of each subcommittee and develop a plan for finalizing initial recommendations to be presented to the Department of Commerce at a later date.

A limited amount of time, from 3:00 p.m.–3:30 p.m., will be available for pertinent brief oral comments from members of the public attending the meeting. To accommodate as many speakers as possible, the time for public comments will be limited to five minutes per person. Individuals wishing to reserve speaking time during the meeting must contact Mr. Mulholland and submit a brief statement of the general nature of the comments, as well as the name and address of the proposed participant by 5:00 p.m. EST on Wednesday, November 27, 2013. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to bring at least 20 copies of their oral comments for distribution to the participants and public at the meeting.

Any member of the public may submit pertinent written comments concerning the RE&EEAC's affairs at any time before or after the meeting. Comments may be submitted to the Renewable Energy and Energy Efficiency Advisory Committee, c/o: Ryan Mulholland, Office of Energy and Environmental Industries, U.S. Department of Commerce, Mail Stop: 4053, 1401 Constitution Avenue NW., Washington, DC 20230. To be considered during the meeting, written comments must be received no later than 5:00 p.m. EST on Wednesday, November 27, 2013, to ensure transmission to the Committee prior to the meeting. Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of RE&EEAC meeting minutes will be available within 30 days of the meeting.

Edward A. O'Malley,

Director, Office of Energy and Environmental Industries.

[FR Doc. 2013–27588 Filed 11–18–13; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–869]

Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that diffusion-annealed, nickel-plated flat-rolled steel products (certain nickel-plated, flat-rolled steel) from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are listed in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

Pursuant to requests from interested parties, we are postponing for 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, we intend to make our final determination not later than 135 days after publication of this preliminary determination in the **Federal Register**.

DATES: *Effective Date:* November 19, 2013.

FOR FURTHER INFORMATION CONTACT: Dena Crossland or David Cordell, AD/CVD Operations, Office 6, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3362 or (202) 482–0408, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The diffusion-annealed, nickel-plated flat-rolled steel products included in this investigation are flat-rolled, cold-reduced steel products, regardless of chemistry; whether or not in coils; either plated or coated with nickel or nickel-based alloys and subsequently annealed (*i.e.,* ''diffusion-annealed''); whether or not painted, varnished or coated with plastics or other metallic or nonmetallic substances; and less than or equal to 2.0 mm in nominal thickness. For purposes of this investigation, ''nickel-based alloys'' include all nickel alloys with other metals in which nickel accounts for at least 80 percent of the alloy by volume.

Imports of merchandise included in the scope of this investigation are classified primarily under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7212.50.0000 and 7210.90.6000, but may also be classified under HTSUS subheadings 7210.70.6090, 7212.40.1000, 7212.40.5000, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.90.0010, 7220.90.0015, 7225.99.0090, or 7226.99.0180. The foregoing HTSUS subheadings are provided only for convenience and customs purposes. The written description of the scope of this investigation is dispositive.[1]

Tolling of Deadlines for Preliminary Determination

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[2] Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. The revised deadline for the preliminary determination of this investigation is now November 8, 2013.

Methodology

The Department has conducted this investigation in accordance with section 731 of the Act. Export prices have been calculated in accordance with section 772 of the Act. Normal value has been calculated in accordance with section 773 of the Act. Because one of the selected mandatory respondents, Nippon Steel & Sumitomo Metal Corporation, failed to respond to the Department's questionnaire, we have preliminarily determined to apply adverse facts available to this respondent.

For a full description of the methodology underlying our conclusions, *see* Decision Memorandum for Preliminary Determination of the Antidumping Duty Investigation of Diffusion-Annealed, Nickel-Plated Flat-

[1] *See Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: Initiation of Antidumping Duty Investigation,* 78 FR 23905 (April 23, 2013).

[2] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (October 18, 2013).

Rolled Steel Products from Japan'' (Preliminary Decision Memorandum) from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov,* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Determination

The preliminary weighted-average dumping margins are as follows:

Producer or exporter	Weighted-Average dumping margin (percent)
Toyo Kohan Co., Ltd.	47.80
Nippon Steel & Sumitomo Metal Corporation	77.70
All Others	47.80

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of certain nickel-plated, flat-rolled steel from Japan, as described in the ''Scope of the Investigation'' section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit [3] equal to the preliminary weighted-average amount by which normal value exceeds U.S. price, as indicated in the chart above, as follows: (1) the rate for Toyo Kohan Co., Ltd. (Toyo Kohan) and Nippon Steel & Sumitomo Metal Corporation will be the rate we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 47.80 percent, as discussed in the ''All Others Rate'' section, below. These suspension of liquidation instructions will remain in effect until further notice.

All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated ''all others'' rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. Toyo Kohan is the only respondent in this investigation for which the Department calculated a company-specific margin that is not zero, *de minimis,* or determined entirely under section 776 of the Act. Therefore, pursuant to section 735(c)(5)(A) of the Act, we are applying the dumping margin calculated for Toyo Kohan, 47.80 percent, as the ''all others'' rate.

Disclosure

The Department intends to disclose to parties the calculations performed in connection with this preliminary determination within five days of the date of publication of this notice. *See* 19 CFR 351.224(b).

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the last verification report in this proceeding. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d)(1) and 19 CFR 351.309(d)(2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. *See* 19 CFR 351.309(c)(2). Executive summaries should be limited to five pages total, including footnotes. Interested parties who wish to comment on the preliminary determination must file briefs electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time.

In accordance with section 774 of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. *See also* 19 CFR 351.310. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using IA ACCESS, as noted above. An electronically filed request must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. *See* 19 CFR 351.310(c). If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. *See* 19 CFR 351.310. Parties should confirm by telephone the date, time, and location of the hearing.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such

[3] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On October 28, 2013, Toyo Kohan requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (135 days after publication of the preliminary determination), and agreed to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period.[4] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting producer/exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly. We are also extending the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month period to a six-month period.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our preliminary affirmative determination of sales at less than fair value. Because the preliminary determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain nickel-plated, flat-rolled steel from Japan before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, as discussed above, the ITC will make its final determination no later than 45 days after our final determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: November 8, 2013.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2013–27577 Filed 11–18–13; 8:45 am]

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[4] *See* Letter from Toyo Kohan to the Department, dated October 28, 2013 and Letter from Petitioner dated October 29, 2013.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Board of Overseers of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Board of Overseers of the Malcolm Baldrige National Quality Award (Board) will meet in open session on Monday, December 9, 2013. The purpose of this meeting is to review and discuss the work of the private sector contractor, which assists the Director of the National Institute of Standards and Technology (NIST) in administering the Malcolm Baldrige National Quality Award (Award), and information received from NIST and from the Chair of the Judges' Panel of the Malcolm Baldrige National Quality Award in order to make such suggestions for the improvement of the Award process as the Board deems necessary.

DATES: The meeting will be held on Monday, December 9, 2013 from 8:30 a.m. Eastern Time until 3:00 p.m. Eastern Time. The meeting will be open to the public.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, 100 Bureau Drive, Gaithersburg, Maryland 20899. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Robert Fangmeyer, Acting Director, Baldrige Performance Excellence Program, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland 20899–1020, telephone number (301) 975–2360, or by email at *robert.fangmeyer@nist.gov*.

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 3711a(d)(2)(B) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the Board will meet in open session on Monday, December 9, 2013 from 8:30 a.m. Eastern Time until 3:00 p.m. Eastern Time. The Board is composed of 12 members selected for their preeminence in the field of organizational performance excellence and appointed by the Secretary of Commerce. The Board consists of a balanced representation from U.S. service, manufacturing, nonprofit, education, and health care industries. The Board includes members familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, health care providers, and educational institutions. Members are also chosen who have broad experience in for-profit and nonprofit areas. The purpose of this meeting is to review and discuss the work of the private sector contractor, which assists the Director of the National Institute of Standards and Technology (NIST) in administering the Award, and information received from NIST and from the Chair of the Judges' Panel of the Malcolm Baldrige National Quality Award in order to make such suggestions for the improvement of the Award process as the Board deems necessary. The Board shall make an annual report on the results of Award activities to the Director of NIST, along

with its recommendations for the improvement of the Award process. The agenda will include: Report from the Judges Panel of the Malcolm Baldrige National Quality Award, Baldrige Program Business Plan Status Report, Baldrige Foundation Fundraising Update, Products and Services Update, and Recommendations for the NIST Director. The agenda may change to accommodate Board business. The final agenda will be posted on the NIST Baldrige Performance Excellence Web site at *http://www.nist.gov/baldrige/community/overseers.cfm.* The meeting will be open to the public.

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Board's affairs are invited to request a place on the agenda. On December 9, 2013 approximately one-half hour will be reserved in the afternoon for public comments, and speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about 3 minutes each. The exact time for public comments will be included in the final agenda that will be posted on the Baldrige Web site at *http://www.nist.gov/baldrige/community/overseers.cfm.* Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak, but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the Baldrige Performance Excellence Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland, 20899–1020, via fax at 301–975–4967 or electronically by email to *nancy.young@nist.gov*.

All visitors to the National Institute of Standards and Technology site will have to pre-register to be admitted. Please submit your name, time of arrival, email address and phone number to Nancy Young no later than Monday, December 2, 2013, and she will provide you with instructions for admittance. Non-U.S. citizens must also submit their passport number, country of citizenship, title, employer/sponsor, address and telephone. Ms. Young's email address is *nancy.young@nist.gov* and her phone number is (301) 975–2361.

Dated: November 14, 2013.

Willie May,

Associate Director for Laboratory Programs.

[FR Doc. 2013–27698 Filed 11–18–13; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC973

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Applications for four new scientific research permits, two permit modifications, and three research permit renewals.

SUMMARY: Notice is hereby given that NMFS has received nine scientific research permit application requests relating to Pacific salmon, sturgeon, rockfish, and eulachon. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts. The applications may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm*.

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on December 19, 2013.

ADDRESSES: Written comments on the applications should be sent to the Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent via fax to 503–230–5441 or by email to *nmfs.nwr.apps@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Rob Clapp, Portland, OR (ph.: 503–231–2314), Fax: 503–230–5441, email: *Robert.Clapp@noaa.gov*). Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov*.

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Threatened California Coastal (CC); threatened Central Valley spring-run (CVS); threatened Lower Columbia River (LCR); threatened Puget Sound (PS); endangered Sacramento River winter-run (SRW); threatened Snake River (SR) fall-run; threatened SR spring/summer-run (spr/sum); endangered Upper Columbia River (UCR) spring-run; threatened Upper Willamette River (UWR).

Steelhead (*O. mykiss*): Threatened UCR; threatened SR; threatened middle Columbia River (MCR); threatened California Central Valley (CCV); threatened Central California Coast (CCC); threatened LCR; threatened Northern California (NC); threatened PS; threatened South-Central California Coast (SCC); threatened UWR.

Sockeye salmon (*O. nerka*): Endangered SR; threatened Ozette Lake (OL).

Chum salmon (*O. keta*): Threatened Columbia River (CR); threatened Hood Canal summer-run (HCS).

Coho salmon (*O. kisutch*): Endangered CCC; threatened LCR; threatened Oregon Coast (OC); threatened Southern Oregon/Northern California Coast (SONCC).

Eulachon (*Thaleichthys pacificus*): Threatened southern (S).

Green sturgeon (*Acipenser medirostris*): Threatened southern (S).

Rockfish (*Sebastes* spp.): Endangered Puget Sound/Georgia Basin (PS/GB) bocaccio *(Sebastes paucispinis*); threatened PS/GB canary rockfish (*S. pinniger*); threatened PS/GB yelloweye rockfish (*S. ruberrimus*).

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et. seq*) and regulations governing listed fish and wildlife permits (50 CFR parts 222–226). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 1484–6R

The Washington Department of Natural Resources (WDNR) is seeking to renew permit 1484 for a period of five years. The current permit has been in place for five years with one amendment; it expires on December 31, 2013. Under the new permit, the WDNR would conduct research that would

annually take juvenile PS Chinook salmon, LCR Chinook salmon, LCR coho salmon, LCR steelhead, and CR chum salmon in WDNR-managed forest lands in the state of Washington. The purpose of the research is to conduct surveys to correctly identify stream types. By correctly identifying stream types, the WDNR could potentially benefit listed species by increasing the size of riparian zones and thus protecting habitat needed for healthy salmonid populations. In addition, any new data regarding listed species presence would be used to inform land management decisions and better protect species from the effects of those actions. The WDNR proposes to capture the fish (using backpack electrofishing), identify, and release them. The WDNR does not intend to kill any of the fish being captured, but a small number may die as an unintended consequence of the proposed activities.

Permit 14046–2R

The King County Department of Natural Resources and Parks (KCDNRP) is seeking to renew a five-year permit to annually take juvenile PS Chinook salmon and PS steelhead. They would sample fish in four Puget Sound sub-basins (Snoqualmie, Lake Washington, Duwamish, and Puyallup) in King County, Washington. The purposes of the study are to: (1) Evaluate the effectiveness of restoration actions, (2) better understand the importance of off-channel habitats in providing habitat, and (3) assess salmonid habitat status and trends in small streams with varying degrees of land use. The research would benefit listed species by guiding future restoration projects so they might provide the greatest benefit to listed species. The KCDNRP proposes to capture fish using beach seines, fyke nets, minnow traps, and both backpack- and boat-operated electrofishing. The captured fish would be anaesthetized, identified to species, allowed to recover, and released. The researchers do not propose to kill any of the listed salmonids being captured, but a small number may die as an unintended consequence of the proposed activities.

Permit 16751–2R

The United States Geological Survey (USGS) is seeking to renew a five-year permit to annually take juvenile and adult PS Chinook salmon, HCS chum salmon, and PS steelhead. The USGS's research may also cause them to take listed eulachon—a species for which there are currently no ESA take prohibitions. Sampling sites would be in the Cedar, Dungeness, Nooksack, Skagit, Skykomish, Snohomish, Snoqualmie, and Stillaguamish river systems of the Puget Sound. The purpose of the study is to identify and assess Pacific lamprey distribution in these watersheds. The research would benefit the listed species by providing managers with information about their distribution and numbers. The main benefactor of this research would be Pacific lamprey because the information generated by the research would be used to help guide conservation measures and land-use activities in ways that conserve lamprey and their habitat; however, because the listed species also use that habitat, any such measures would also benefit them. The USGS proposes to capture fish using backpack electrofishing and seines. Sampling would target silt-mud substrates that are preferred habitats for juvenile lamprey. The research would take place during the late summer and fall before peak lamprey emigration. Electrofishing methods would be modified to target juvenile lamprey and would thus be unlikely to affect, let alone harm, other fish species. A subsample of the captured lamprey would be measured and weighed (up to 30 per site) and up to five fish per site may be tissue sampled or sacrificed. All other fish (including all listed fish) would immediately be released at the capture site. The researchers do not propose to kill any of the listed species being captured, but a small number may die as an unintended result of the proposed activities.

Permit 16984–3M

The ICF International (ICFI) is seeking to modify a five-year permit that currently allows them to take juvenile PS Chinook salmon and PS steelhead. The researchers would conduct sampling in the Snohomish River estuary. The purpose of the study is to measure restored habitat functionality in the wake of the Smith Island dike breaching. The researchers would gauge species abundance and examine juvenile salmonid age classes during peak outmigration. This research would benefit the affected species by providing data to guide future estuarine habitat restoration and enhancement projects. The ICFI proposes to capture fish using hand-held beach seines and dip nets. Fish would be identified to species, measured, and released. The researchers do not propose to kill any of the listed salmonids being captured, but a small number may die as an unintended result of the activities.

Permit 17062–3M

The Northwest Fisheries Science Center (NWFSC) is seeking to modify a 2-year research permit to annually take adult and juvenile HCS chum, PS Chinook salmon, and PS steelhead, and adult PS/GB bocaccio. The researchers may also take adult PS/GB canary rockfish and PS/GB yelloweye rockfish—species for which there are currently no ESA take prohibitions. Sampling would take place throughout the Puget Sound, the Strait of Juan de Fuca, and Hood Canal. The purpose of the study is to determine how much genetic variation exists between coastal and Puget Sound/Georgia Basin DPS populations of bocaccio, canary rockfish, and yelloweye rockfish. The research would benefit rockfish by increasing our understanding of the connectivity (or lack thereof) between rockfish populations in the Puget Sound and populations on the outer coast. The NWFSC proposes to capture fish using hook and line equipment at depths of 50–100 meters along rocky bottom habitat. Fish would slowly be reeled to the surface to reduce barotrauma. All salmon and steelhead would be immediately released at the capture site. All captured ESA-listed rockfish would be measured, sexed, have a tissue sample taken, floy tagged, and returned to the water via rapid submersion techniques. If an individual of these species is captured dead or deemed nonviable, it would be retained for genetic analysis. The researchers do not propose to kill any of the listed fish being captured, but a small number may die as an unintended result of the activities.

Permit 18038

The Pacific States Marine Fisheries Commission (PSMFC) is seeking a five-year research permit to annually take all individuals from all the salmonid species listed at the beginning of this notice along with S green sturgeon. They may also take S eulachon—a species for which there are currently no ESA take prohibitions. All take for salmon and steelhead would be subadult and adults, and all take for green sturgeon and eulachon would be adult. The surveys would range from the northern California to the Washington coast in coastal waters shallower than 1,000 meters. The purpose of the study is to collaborate with gear researchers and fishermen to develop devices and or methods for reducing bycatch in West Coast groundfish trawl fisheries. The research would benefit listed fish by determining the best ways to reduce bycatch. The PSMFC proposes capturing fish using mid-water and bottom trawls. Fish would be identified to species, have a tissue or scale sample taken, and be released. The researchers do not

propose to kill any of the listed species being captured, but given the nature of the capture methods, some individuals would likely be killed.

Permit 18194

The Wild Fish Conservancy (WFC) is seeking a five-year permit to annually take juvenile PS Chinook salmon and juvenile and adult PS steelhead. The sampling would take place in selected stream channels and floodplain areas throughout the Stillaguamish River watershed in Washington State. The purpose of the study is to classify by water type approximately 25 miles of stream channel in selected sub-basins and floodplain areas of the Stillaguamish River with the intent of verifying and updating Washington Department of Natural Resources, Snohomish County, and United States Forest Service stream classifications and hydrological layers. This research would benefit the affected species by improving regulatory protection of sensitive aquatic habitats for ESA listed Chinook and steelhead, improving our knowledge of Chinook habitat use (and thereby informing various recovery strategies), and identifying significant habitat restoration opportunities. The WFC proposes to capture fish using beach seines, fyke nets, and minnow traps. Fish would be anesthetized, identified to species, measured to size class, have a tissue sample taken, and released. The researchers do not propose to kill any of the listed salmonids being captured, but a small number may die as an unintended result of the activities.

Permit 18331

The WFC is seeking a five-year permit to annually take juvenile PS Chinook salmon and PS steelhead in selected stream channels and floodplain areas throughout the Kitsap and Snoqualmie sub-basins in Washington State. The purpose of the study is to classify existing channels by water type and thereby validate and update Washington Department of Natural Resources, and affected county and city, stream classifications and hydrological layers. This research would benefit the affected species by filling data gaps regarding fish passage impediments (tidegates, culverts, etc.) and providing fish species composition and distribution—information needed to identify, prioritize, and implement restoration projects. The WFC proposes to capture fish using backpack electrofishing. Fish would be identified to species, have a tissue sample taken (only steelhead in the Kitsap sub-basin), and released. Once fish presence is established, either through visual observation or electrofishing, electrofishing would be discontinued. Surveyors would proceed upstream until a change in habitat parameters is encountered, where electrofishing would be continued. The researchers do not propose to kill any of the listed salmonids being captured, but a small number may die as an unintended result of the activities.

Permit 18405

The Oregon State University (OSU) is seeking a two-year permit to annually take juvenile LCR, PS, and UCR Chinook salmon; CR chum salmon; LCR coho salmon; and LCR, MCR, PS, SRB, and UCR steelhead. The OSU research may also cause them to take adult S eulachon—a species for which there are currently no ESA take prohibitions. The sampling would take place in multiple locations in the Puget Sound (Stillaguamish, Skykomish, Duwamish, and Nisqually watersheds), Washington coast (Sol Duc, Queets, Quinault, Chehalis, and Willapa watersheds), and Columbia River basin (Cowlitz, Klickitat, Yakima, Wenatchee, Spokane, and Palouse watersheds). The purpose of the study is to determine the taxonomic status of Pacific Northwest coastal populations of Speckled Dace based on genetic and morphological data. The genetic sequence data would be used to better understand the historical biogeography of coastal Speckled Dace, improve the understanding of how coastal streams contribute to local species diversity and endemism, and to compare coastal to inland Speckled Dace populations. The research would benefit the listed species by providing information on their distribution, but the main benefactor of this research would be speckled dace by providing taxonomical and distributional data for that species. The OSU proposes to capture fish using small seine nets, dip nets, and minnow traps. All non-target species and listed salmon and steelhead would immediately be released after capture. The researchers do not propose to kill any of the listed salmonids being captured, but a small number may die as an unintended result of the activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: November 14, 2013.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–27658 Filed 11–18–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 130926840–3840–01]

RIN 0648–XC898

Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List 19 Species and 3 Subpopulations of Sharks as Threatened or Endangered Under the Endangered Species Act

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of 90-day petition finding, request for information.

SUMMARY: We (NMFS) announce a 90-day finding on a petition to list 19 species and 3 subpopulations of sharks as threatened or endangered under the Endangered Species Act (ESA). We find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for 9 species: *Centrophorus harrissoni, Isogomphodon oxyrhynchus, Mustelus fasciatus, Mustelus schmitti, Squatina aculeata, Squatina argentina, Squatina guggenheim, Squatina oculata,* and *Squatina squatina.* Therefore, we will conduct a status review of the nine species to determine if the petitioned action is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information pertaining to these petitioned species from any interested party. We find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted for 10 species and 3 subpopulations: *Carcharhinus borneensis, Carcharhinus hemiodon, Carcharias taurus* (Southwest Atlantic subpopulation), *Cetorhinus maximus* (North Pacific subpopulation), *Cetorhinus maximus* (Northeast Atlantic subpopulation), *Haploblepharus kistnasamyi, Hemitriakis leucoperiptera, Holohalaelurus favus, Holohalaelurus punctatus, Lamiopsis temmincki, Squatina formosa, Squatina punctata,* and *Triakis acutipinna.*

DATES: Information and comments on the subject action must be received by January 21, 2014.

ADDRESSES: You may submit comments, information, or data on this document, identified by the code NOAA–NMFS–2013–0519, by any of the following methods:

- *Electronic Submissions:* Submit all electronic comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0159,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous), although submitting comments anonymously will prevent NMFS from contacting you if NMFS has difficulty retrieving your submission. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Copies of the petition and related materials are available upon request from the Director, Office of Protected Resources, 1315 East West Highway, Silver Spring, MD 20910, or online at: *http://www.nmfs.noaa.gov/pr/species/petition81.htm.*

FOR FURTHER INFORMATION CONTACT: Maggie Miller, Office of Protected Resources, 301–427–8403.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2013, we received a petition from the WildEarth Guardians to list 81 marine species as threatened or endangered under the ESA and to designate critical habitat under the ESA. Copies of this petition are available from us (see **ADDRESSES**). This finding addresses the 19 species and 3 subpopulations of sharks identified as part of this petition. The 19 shark species and 3 subpopulations considered in this finding are: *Carcharhinus borneensis, Carcharhinus hemiodon, Carcharias taurus* (Southwest Atlantic Subpopulation), *Centrophorus harrissoni, Cetorhinus maximus* (North Pacific Subpopulation), *Cetorhinus maximus* (Northeast Atlantic Subpopulation), *Haploblepharus kistnasamyi, Hemitriakis leucoperiptera, Holohalaelurus favus, Holohalaelurus punctatus, Isogomphodon oxyrhynchus, Lamiopsis temmincki, Mustelus fasciatus, Mustelus schmitti, Squatina aculeata, Squatina argentina, Squatina formosa, Squatina guggenheim, Squatina oculata, Squatina punctata, Squatina squatina,* and *Triakis acutipinna.*

Section 4(b)(3)(A) of the ESA of 1973, as amended (U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and to promptly publish the finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When we find that substantial scientific or commercial information in a petition indicates the petitioned action may be warranted (a ''positive 90-day finding''), we are required to promptly commence a review of the status of the species concerned, which includes conducting a comprehensive review of the best available scientific and commercial information. Within 12 months of receiving the petition, we must conclude the review with a finding as to whether, in fact, the petitioned action is warranted. Because the finding at the 12-month stage is based on a significantly more thorough review of the available information, a ''may be warranted'' finding at the 90-day stage does not prejudge the outcome of the status review.

Under the ESA, a listing determination may address a species, which is defined to also include subspecies and, for any vertebrate species, any DPS that interbreeds when mature (16 U.S.C. 1532(16)). A joint NMFS-U.S. Fish and Wildlife Service (USFWS) (jointly, ''the Services'') policy (DPS Policy) clarifies the agencies' interpretation of the phrase ''distinct population segment'' for the purposes of listing, delisting, and reclassifying a species under the ESA (61 FR 4722; February 7, 1996). A species, subspecies, or DPS is ''endangered'' if it is in danger of extinction throughout all or a significant portion of its range, and ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively, 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, we determine whether species are threatened or endangered based on any one or a combination of the following five section 4(a)(1) factors: The present or threatened destruction, modification, or curtailment of habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; and any other natural or manmade factors affecting the species' existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by NMFS and USFWS (50 CFR 424.14(b)) define ''substantial information'' in the context of reviewing a petition to list, delist, or reclassify a species as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. When evaluating whether substantial information is contained in a petition, we must consider whether the petition: (1) Clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (2) contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (3) provides information regarding the status of the species over all or a significant portion of its range; and (4) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)).

At the 90-day stage, we evaluate the petitioner's request based upon the information in the petition including its references, and the information readily available in our files. We do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioner's sources and characterizations of the information presented, if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates the petition's information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more

than one interpretation or that is contradicted by other available information will not be dismissed at the 90-day finding stage, so long as it is reliable and a reasonable person would conclude that it supports the petitioner's assertions. Conclusive information indicating the species may meet the ESA's requirements for listing is not required to make a positive 90-day finding. We will not conclude that a lack of specific information alone negates a positive 90-day finding, if a reasonable person would conclude that the unknown information itself suggests an extinction risk of concern for the species at issue.

To make a 90-day finding on a petition to list a species, we evaluate whether the petition presents substantial scientific or commercial information indicating the subject species may be either threatened or endangered, as defined by the ESA. First, we evaluate whether the information presented in the petition, along with the information readily available in our files, indicates that the petitioned entity constitutes a ''species'' eligible for listing under the ESA. Next, we evaluate whether the information indicates that the species at issue faces extinction risk that is cause for concern; this may be indicated in information expressly discussing the species' status and trends, or in information describing impacts and threats to the species. We evaluate any information on specific demographic factors pertinent to evaluating extinction risk for the species at issue (e.g., population abundance and trends, productivity, spatial structure, age structure, sex ratio, diversity, current and historical range, habitat integrity or fragmentation), and the potential contribution of identified demographic risks to extinction risk for the species. We then evaluate the potential links between these demographic risks and the causative impacts and threats identified in section 4(a)(1).

Information presented on impacts or threats should be specific to the species and should reasonably suggest that one or more of these factors may be operative threats that act or have acted on the species to the point that it may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information that listing may be warranted. We look for information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

Many petitions identify risk classifications made by non-governmental organizations, such as the International Union for Conservation of Nature (IUCN), the American Fisheries Society, or NatureServe, as evidence of extinction risk for a species. Risk classifications by other organizations or made under other Federal or state statutes may be informative, but such classification alone may not provide the rationale for a positive 90-day finding under the ESA. For example, as explained by NatureServe, their assessments of a species' conservation status do ''not constitute a recommendation by NatureServe for listing under the U.S. Endangered Species Act'' because NatureServe assessments ''have different criteria, evidence requirements, purposes and taxonomic coverage than government lists of endangered and threatened species, and therefore these two types of lists should not be expected to coincide'' (*http://www.natureserve.org/prodServices/statusAssessment.jsp*). Thus, when a petition cites such classifications, we will evaluate the source of information that the classification is based upon in light of the standards on extinction risk and impacts or threats discussed above.

In this petition the petitioner relies almost exclusively on the risk classifications of the IUCN as the source of information on the status of each petitioned species. All of the petitioned species are listed as ''endangered'' or ''critically endangered'' on the IUCN Redlist and the petitioner notes this as an explicit consideration in offering petitions on these species. However, as mentioned above, species classifications under IUCN and the ESA are not equivalent, and data standards, criteria used to evaluate species, and treatment of uncertainty are also not necessarily the same. Thus, we instead consider the information on threats identified by the petitioners, as well as the data on which they are based, as they pertain to each petitioned species.

Analysis of the Petition

With the exception of the North Pacific subpopulation of basking shark (*Cetorhinus maximus*), the petitioned shark species and subpopulations are found exclusively in foreign waters. The introductory part of the shark section of the petition provides a general description of threats following the five ESA Section 4(a)(1) factors and is meant to apply to all of the petitioned species. This section discusses the following threats: Habitat destruction from trawling and human population growth, loss of coral reef habitat, overutilization by fisheries, disease, lack of adequate existing regulatory mechanisms, biological characteristics that increase susceptibility to threats, restricted ranges, climate change, and synergistic effects. The species-specific information section follows and provides information largely from the IUCN assessment for each species. This section includes fewer than three pages of unique material for over half of the petitioned species and provides information on the species' Convention on International Trade in Endangered Species (CITES) and IUCN status, range, and habitat information. Entries for only a few species provide species-specific population status or trend information. We consider this information separately in the ''Species-specific information'' section below.

General Information

The petition clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved. The petition also contains a narrative justification for the recommended measure and provides limited information on the species' and subpopulations' geographic distribution, habitat use, and threats. For a number of the species and subpopulations, the petitioner fails to provide any information on past and present numbers or population status. A synopsis of our analysis of the information provided in the petition and readily available in our files is provided below.

Based on the information presented in the petition, along with the information readily available in our files, we find that 20 of the 21 petitioned shark species constitute taxonomically valid species eligible for listing under the ESA.

The introductory threats discussion is general, with only occasional references to specific petitioned species and subpopulations with the threats later repeated in the species-specific section (discussed below). Some of the general threats discussion are not clearly or causally linked to the petitioned species (e.g., discussion of dead zones yet no identification that these occur in the petitioned species' ranges; discussion of the threat of climate change with a focus on coral reef habitat loss when only one petitioned species was identified as found on coral reef habitats (*Haploblepharus kistnasamyi*)). The petition also references worldwide human population growth as a threat for all of the petitioned species. However,

a rising human population by itself may not necessarily be a threat to a species, if, for instance, human activities are managed such that habitat is preserved or species are not over-exploited. Similarly, human-mediated threats can occur at a level that renders a species in danger of extinction in the absence of a growing human population. Thus, information that the population is growing, on its own, does not indicate that the growing human population is a threat.

The petition provides a discussion of disease as a threat, presenting it in terms of accumulations of mercury, persistent organic compounds, heavy metals and other pollutants in sharks. However, the studies that the petition references as support are based primarily on non-petitioned shark species in locations outside of the petitioned shark species' ranges. For example, in their discussion of the threat of mercury (Hg) accumulation, the petitioners cite Mull *et al.* (2012). This study focused solely on white sharks found in the Southern California Bight (SCB). The authors concluded that geographic location is a primary driver of the level of observed concentrations of contaminants in sharks, with those sharks found in contamination hot spots (such as the SCB and Mediterranean Sea) likely to have higher tissue concentrations of contaminants. According to the authors, ''Sharks from the SCB exhibited elevated muscle levels of total Hg, second only to adult Smooth Hammerheads, Gulper Sharks (*Centrophorus granulosus*), Longnose Spurdog (*Squalus blainvilii*), and Kitefin Sharks (*Dalatias licha*) from the Ionian Sea.'' Sharks from the SCB also exhibited concentrations of dichlorodiphenyltrichloroethane (DDT) and polychlorinated biphenyls (PCBs), much higher than those found elsewhere in the world. However, according to Mull *et al.* (2012), it is unclear if the high levels of contaminants in the white sharks are causing deleterious physiological effects or affecting survival or reproduction rates. We recently conducted an ESA status review of the Northeastern Pacific DPS of white sharks, and in our evaluation of threats from pollutants, we noted that no hepatic lesions or other visible effects have been observed in the DPS (Dewar *et al.,* 2013). Additionally, the status review report notes that ''[i]ndications that high tissue contaminant levels are not causing problems at a population level are the apparent increase in other predators that have similarly high contaminant levels including the coastal stock of bottlenose dolphins, California sea lions and harbor seals'' (Dewar *et al.,* 2013). Ultimately, we concluded that the impacts of pollution and disease are not significant threats to the Northeastern Pacific DPS of white sharks. As these white sharks, which likely have some of the highest levels of contaminants compared to sharks found elsewhere in the world, were not found to be threatened or endangered due to pollutants, it is reasonable to conclude that the petitioned species, which are not found in the SCB and thus likely to have lower levels of contaminants, are not at risk of extinction from these pollutants.

Likewise, the petitioner cites Lyle (1984; 1986) as evidence of threats to the petitioned species based on the accumulation of Hg; however, the paper examined shark species that utilize waters of the Northern Territory of Australia. None of the petitioned shark species are found in these waters. In addition, the Lyle papers made no mention of the effects of bioaccumulation on the survival or reproductive capacity of the examined shark species. Instead, the papers simply discuss the rate and level of Hg and selenium concentrations in sharks, with a focus on human consumption, not survival of shark species.

Finally, the petitioners reference Storelli *et al.* (2003) for evidence of threats to the petitioned species based on accumulations of PCBs and arsenic. The Storelli *et al.* (2003) paper examined hammerhead shark species (none of which were petitioned) in the Ionian Sea. The Ionian Sea, as mentioned above, is recognized as a geographical location with exceptionally high levels of Hg contamination due to urban, industrial, and natural source inputs (Storelli *et al.,* 2003; Mull *et al.,* 2012). Only three of the petitioned species (*Squatina aculeata, S. oculata,* and *S. squatina*) may have current ranges that extend into the Mediterranean Sea. However, Storelli *et al.* (2003), state ''[i]t is hypothesed [sic] that the large size of elasmobranch liver provides a greater ability to eliminate organic toxicants than in other fishes.'' While the paper mentions that ''the presence of PCBs and methylmercury, coupled with their synergistic activity, may make these organisms susceptible to long-term toxic effects'', it also states that in marine mammals selenium has a detoxifying effect against Hg intoxication when the molar ratio between the two metals is close to one, and the authors observed similar ratios in shark liver ''indicating that this particular mechanism may also be valid for sharks'' (Storelli *et al.,* 2003). With no information in our files, or provided by the petitioner, on baseline concentrations or rate of accumulation of pollutants in the petitioned shark species, or even conclusive evidence of negative effects of accumulation in terms of survival or reproductive capacity of the shark species from the referenced studies, we find that the petitioner has not provided substantial information that would lead a reasonable person to conclude that the threat of disease from pollutants (Hg, persistent organic compounds, heavy metals, and other pollutants) is contributing to the petitioned shark species' risk of extinction.

In the regulatory mechanisms discussion, the petitioner argues that there are no adequate regulatory mechanisms because the species are listed as endangered or critically endangered by IUCN, and none of the populations have increasing or even stable population trends. However, generalized evidence of declining populations *per se* is neither evidence of declines large enough to infer extinction risk that may meet the definition of either threatened or endangered under the ESA, nor evidence of inadequate regulatory mechanisms, since sustainable management regimes can have periods of declining populations.

The petition notes that only one species, with two petitioned subpopulations (*Cetorhinus maximus*), is listed on CITES Appendix II and references the limitations inherent in CITES listings from the coral section of the petition. According to Article II of CITES, species listed on Appendix II are those that are ''not necessarily now threatened with extinction but may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival.'' Based on the CITES definitions and standards for listing species on Appendix II, the species' actual listing on Appendix II is not itself an inherent indication that these species may now warrant threatened or endangered status under the ESA. Species classifications under CITES and the ESA are not equivalent, and criteria used to evaluate species are not the same. The petitioner also makes generalized statements about shark finning bans and other measures of protections in this section, but does not provide any details or references. We do not consider these general and unsubstantiated statements as substantial information that listing may be warranted due to an inadequacy of regulatory mechanisms for all of the petitioned species. Where the petition provides species-specific information on

this threat, that information is considered in the individual species sections below. Likewise, biological characteristics, such as slow growth and reproductive rates, and/or range restrictions, do not automatically pose threats to all of the petitioned species. These biological and ecological factors are examined on a species-specific basis below, if information is available.

While the information in this introductory section is otherwise largely accurate and suggests concern for the status of sharks in general, the broad statements and generalizations of threats for all petitioned shark species and subpopulations do not constitute substantial information that listing may be warranted for any of the petitioned species or subpopulations. There is little information in this introductory section indicating that particular petitioned species may be responding in a negative fashion to any of the discussed threats. The few instances in the introductory section which specifically link threats to a particular petitioned species or subpopulation will be considered in our discussion of threats to that particular species or subpopulation.

The next part of the petition consists of individual species accounts for each of the 22 petitioned sharks. For many of the species and subpopulations, the information is extracted directly from the IUCN assessment, with the petitioner providing the assessment as an accompanying exhibit and a list of references cited by the IUCN assessment. Below we analyze this species-specific information in light of the standards of the ESA and our policies as described above.

Species Descriptions and Information

Carcharhinus borneensis, commonly referred to as the Borneo shark, is an inshore coastal shark that appears to be found exclusively off Sarawak, Malaysia on Borneo. It is a small shark, with an observed maximum size of 87 cm (Department of Fisheries Malaysia, 2006). Prior to 1937, it was only known from five confirmed specimens (four of which were collected from Borneo, and one from China) (Compagno, 2009; White *et al.,* 2010). As such, the life history and ecology of this species is largely unknown (Compagno, 2009; White *et al.,* 2010).

The petition states that the species is very rare, and specifically identifies commercial overutilization as a threat based solely on the general statement in the IUCN assessment that identifies Borneo as an area heavily exploited by artisanal and commercial fisheries (Compagno, 2009). No references were included as support for this statement, and neither the petitioner nor the IUCN assessment provides any information on catch statistics or operations of Borneo fisheries. Instead, the assertion that fishing activities have detrimentally affected the species seems based solely on the species' rarity in historical records. However, there could be a number of other reasons for the species' absence in fishing records, such as: The species' range does not coincide with fishery operations or survey areas; the fishing gear employed is not effective at catching the species; the species may have been caught but was released if it was not of commercial value; its life history is unknown, so it is possible that this species may migrate to other areas during fishing seasons; etc. In other words, a species that is persistently rare in the historical records does not necessarily mean that it has declined or is in danger of extinction. In fact, in this case, recent surveys in the region have actually found the species in ''substantial numbers'' near Mukah in Sarawak (White *et al.,* 2010). The 2006 Malaysia National Plan of Action (NPOA) for sharks supports this finding, noting that *C. borneensis* was the third most abundant species landed in Mukah, comprising around 9 percent of the shark landings (Department of Fisheries Malaysia, 2006). This new information from our files, not considered in the IUCN assessment (which relied on information prior to 2006), suggests that the Borneo shark is more common than previously thought.

The petitioner also contends that there is a complete lack of protections for the species. We do not necessarily consider a lack of species-specific protections as a threat to the species or even problematic in all cases. For example, management measures that regulate other species or fisheries operations may indirectly help to minimize threats to the petitioned species and may be adequate to prevent it from being at risk of extinction. Again, we look for substantial information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response. According to the Malaysia NPOA, sharks are not targeted by fishermen but are caught as bycatch with other commercially important species (Department of Fisheries Malaysia, 2006). In fact, shark and ray landings constitute only around 2.2 percent of the total marine landings of the demersal fishery that operates within Malaysian waters (Department of Fisheries Malaysia, 2006). In Mukah, *C. borneensis* is primarily landed in coastal gillnets. In terms of fisheries regulations, Malaysia has a number of fishing gear, method, and area restrictions that have been in place to control the exploitation of fishery resources. For example, there is currently a complete ban on fishing methods that are destructive to fish resources and their environment, such as dynamite, pair trawling, and push nets (Department of Fisheries Malaysia, 2006). The *pukat pari,* a drift gill net with a mesh size larger than 25.4 cm that was used to catch large sized sharks and rays, has been banned since 1990 (Department of Fisheries Malaysia, 2006). As the Malaysia NPOA notes, these nationwide bans on fishing gear and methods have helped reduce the exploitation of adult shark and ray species and provided some conservation benefits to the breeding stocks.

Little information is known about the life history and biology of *C. borneensis.* It was previously considered to be a rare species, with the assumption that its absence in records was due to historical overutilization of the species; however, recent information suggests otherwise. In fact, the species is substantially more abundant than previously thought, indicating that it is either experiencing an increasing population trend or that prior sampling of the species was inadequate. The species is now commonly landed in part of its range. We, therefore, find no evidence that would suggest that the threat of overutilization or inadequate regulatory measures is putting this species at an increased extinction risk and conclude that the species-specific information presented in the petition does not constitute substantial information that listing may be warranted for *C. borneensis.*

Carcharhinus hemiodon, commonly referred to as the Pondicherry shark, is a rarely observed shark thought to occur inshore on continental and insular shelves (Compagno *et al.,* 2003). The petitioner, citing the IUCN assessment (Compagno *et al.,* 2003), notes that the species could possibly be extinct, as the last record of the shark was in 1979 in India ''despite detailed surveys in Borneo, Philippines, and Indonesia.'' However, more recent surveys in India's economic exclusive zone (EEZ), conducted from 1984–2006, have identified the species as being present in these waters. The petition also states that the species is represented by ''fewer than twenty specimens in museum collections, most of which were captured before 1900.'' However, it was also recorded for the first time in Malaysian waters during shark surveys

conducted from 1999 to 2004 (Department of Fisheries Malaysia, 2006), suggesting the range of the shark may be wider than previously assumed. Prior to 1990, *C. hemiodon* was reported as common in the Guandong Province and Fujian Province in China, but was not recorded during market and interview surveys conducted in these shark-fishing provinces from 2006 to 2008 (Lam and de Mitcheson, 2010).

Similar to *C. borneensis,* the petition attributes the rarity of this species to commercial overutilization, although it acknowledges that the population trend, past and present abundance of the species, and the basic biology and life history of the species are unknown. As mentioned previously, rarity does not necessarily mean that a species is threatened or in danger of extinction. The condition of being rare is an important factor to consider when evaluating a species' risk of extinction; however, it does not by itself indicate the likelihood of extinction of that species, nor does the condition of being rare constitute substantial information that listing under the ESA may be warranted. We look for information indicating that the species is exposed to a threat, but also that the species may be responding in a negative fashion to that threat. While we acknowledge that fishing has and is occurring in areas where this species has been documented, the petitioner does not provide any information indicating that this species was (or is) targeted or caught as bycatch in these fisheries in numbers that would lead a reasonable person to conclude that it has declined or that listing may be warranted. In fact, the IUCN assessment even acknowledges that ''market surveys have failed to locate it'' (Compagno *et al.* 2003). In addition, the petition claims that there are no conservation measures in place for the species, yet this species is currently listed under Schedule I of India's Wildlife Protection Act (1972), which provides it absolute protection in India's waters (John and Varghese, 2009). The petitioner has failed to provide any information that indicates current regulatory measures are a threat to the species.

Finally, the range of this shark species is poorly known. As such, the rare occurrence of the shark in historical records may simply be a reflection of limited sampling efforts in the assumed range of the shark. As mentioned above, new survey data have in fact recorded the shark in waters where previously it was not known to occur. The IUCN assessment also notes that the species has been recorded from a number of ''widely-separated'' sites, suggesting that this species may exhibit migratory behavior and may not be limited to certain locations. In conclusion, we find that the species-specific information presented in the petition does not constitute substantial information that listing may be warranted for *C. hemiodon.*

Centrophorus harrissoni, commonly referred to as Harrison's dogfish, is a demersal shark found on the upper to middle continental slope off eastern Australia, and on seamounts and ridges north of New Zealand (Pogonoski and Pollard, 2003). The petitioner relies on the IUCN assessment (Pogonoski and Pollard, 2003) for its information, noting that the population size of this species is unknown but the trend is decreasing. The IUCN assessment states that the major threats to the species are from demersal trawling (by Australia's South East Trawl Fishery (SETF)) and droplining (by the New South Wales fisheries) along the continental slope. The shark is commercially valuable and sold for its flesh and liver oil (Graham *et al.,* 2001; Pogonoski and Pollard, 2003). The petition contends that overutilization for commercial purposes has contributed to the decline of the species and currently remains a threat to its existence. According to Graham *et al.* (2001), the demersal trawl-fishery on the upper continental slope off New South Wales (NSW) began in 1968 but rapidly expanded between 1975 and 1980 following exploratory trawling conducted by the NSW government's fisheries research vessel, *Kapala.* By the early 1980s, more than 100 trawlers were landing around 15,000 mt of fish per year, with the majority of fish caught on the upper continental slope. Although sharks were never targeted, some species were fairly abundant, with the larger species, including the dogfish sharks, retained as bycatch. By the late 1980s, there were substantial declines in catch rates of certain fish species, and in 1992, total allowable catches and transferrable quotas were introduced into the fisheries operating in the region. However, no such management measures were created for sharks, which Graham *et al.* (2001) attributes to their low abundance and economic value. In an effort to determine the relative change in shark abundance, Graham *et al.* (2001) examined the Kapala exploratory trawl data from 1976–1977 and data from stratified surveys from 1996–1997 (conducted by the same vessel and gear using equivalent methodology). The surveys were conducted on the upper continental slope trawl grounds, between 200 and 650 m depths, off central and southern NSW. Results showed that 13 of the 15 examined shark species or species groups saw substantial declines, including Harrison's dogfish (Graham *et al.,* 2001). In three of the 1976 surveys, Harrisson's dogfish were lumped with little gulper sharks (*C. uyato*) and so were analyzed as a group. These species were fairly abundant across all depths on all grounds, with an average catch rate estimated at 126 kg/h (Graham *et al.,* 2001). These species also represented around 9, 18, and 32 percent of the total fish catches in the NSW trawl areas off Sydney, Ulladulla, and Eden, respectively. By 1996–1997, the two species represented less than 1 percent of the total catch weight from these areas, with an average catch rate of 0.4 kg/h. This translates to a decline of more than 99 percent between 1976–77 and 1996–1997 (Graham *et al.,* 2001). Given that the 1976–77 survey was conducted when the demersal trawl fishery was just beginning, Graham *et al.* (2001) attributes the subsequent decline in Harrison's dogfish primarily to the fishing activities of the SETF. The authors, and the petitioner, also note that the species' low fecundity (thought to produce only one to two pups every 1 to 2 years) and assumed late maturity have likely hindered its ability to recover from this decline.

In terms of current regulatory measures, the petition notes that there have been some measures implemented that limit the catch of *C. harrissoni* in the SETF and require fishermen to land *Centrophorus* carcasses with their livers, but argues that these regulations are inadequate to protect the species from extinction. Instead, the petitioner states that catch should be completely prohibited for a species that has exhibited such drastic population declines.

Based on the best available information, we find that the threat of overutilization by fisheries, inadequate existing regulatory mechanisms, and other natural factors may be impacting Harrison's dogfish populations to a degree that raises concerns of a risk of extinction, with evidence of severe population declines throughout the species' observed range. We conclude that the petition presents substantial scientific information indicating that the petitioned action of listing *C. harrissoni* as threatened or endangered may be warranted.

Haploblepharus kistnasamyi is a rare shark species, known only from three adult specimens, and is thought to be endemic to South Africa (Human, 2009a). These known specimens have all occurred inshore, from the intertidal zone to 30 m depth, and within a small

area (less than 100 km^2) surrounding Durban, KwaZulu-Natal (Human, 2009a). The species was previously assumed to be a form of *Haploblepharus edwardsii,* but in 2006 was named as a new species based on morphological differences (Human, 2009a). The petition acknowledges that the population size, trend, and life history of the species are virtually unknown.

The petition identifies habitat degradation, overutilization (as bycatch in fisheries), and inadequacy of existing regulatory mechanisms as the main threats to the species' continued existence, and relies primarily on the information within the IUCN assessment (Human, 2009a) for its support. The petition, quoting the IUCN assessment, states that Durban is experiencing increasing industrialization and contends that the resultant industrial waste output, pollution, and land development activities are degrading the only known habitat of *H. kistnasamyi* to the point where its continued existence is at risk. The petitioner also notes that the sharks' restricted range leaves it vulnerable to these localized activities and stochastic events. However, neither the IUCN assessment nor the petition provides any supporting information (or references) for these statements, such as information on the level of development in the area, the amount of waste or pollutants entering the waters surrounding Durban (or water quality data), or evidence that the shark species is responding in a negative fashion to this threat. Likewise, the petitioner states that bycatch is a threat to the species and cites the IUCN assessment, which notes that the area around Durban is heavily fished, especially by the prawn fisheries, but provides no additional information, references, or data on this fishery. Without further information on these fisheries, such as their areas of operation, gear and methods, or data on catch and bycatch, it is unclear how the petitioner came to the conclusion that these fisheries are negatively affecting the abundance of *H. kistnasamyi,* especially in light of the significant unknowns surrounding the life history of *H. kistnasamyi.* In fact, there have recently been questions regarding the exact range of this species, as the IUCN assessment states that possible juveniles of the species have been recorded, but not yet verified, from the Eastern Cape to west of Mossel Bay, both also in South Africa. If these juveniles are identified as *H. kistnasamyi,* then this would provide evidence that the species is not as restricted in its range as previously thought, and especially highlights the need for more sampling and data to understand the species' life history and ecology.

As stated previously, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. In addition, the condition of being rare is an important factor to consider when evaluating a species' risk of extinction; however, it does not by itself indicate the likelihood of extinction of that species, nor does the condition of being rare constitute substantial information that listing under the ESA may be warranted. The fact that the species is considered rare could also be an invalid characterization of the species due to limited sampling. Because of these uncertainties, we look for substantial information within the petition and within our own files indicating that not only is the particular species exposed to a certain factor, but that the species may be responding in a negative fashion, and then we assess the potential significance of that negative response. We had no information on *H. kistnasamyi* or threats to the species in our own files. After evaluation of the species-specific information presented in the petition, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *H. kistnasamyi.*

Hemitriakis leucoperiptera, commonly referred to as the whitefin topeshark, is an inshore tropical shark from Philippine waters. It is known only from two free-swimming individuals and, as such, there is little to no information regarding its life history, range, or population numbers. No other information is provided in the petition or available to us regarding past or present numbers or status of this species. Additionally, according to the IUCN assessment (Compagno, 2005), there have been no confirmed records of the species' occurrence in over 50 years, indicating that the species may no longer be found in the wild. The purpose of the ESA is to conserve species that are in danger of or threatened with extinction. The definition of an endangered species is ''any species which *is* in danger of extinction throughout all or a significant portion of its range'' (Section 3(6)). Species that are already extinct are not protected by the ESA. A review of the best available scientific information provided by the petitioner suggests that *H. leucoperiptera* may no longer exist in the wild and may already be extinct. Given this available information, as well as the previous discussion about the deficiencies of the general threats information, we conclude that the petition does not present substantial information indicating that *H. leucoperiptera* may warrant listing as endangered or threatened under the ESA.

Holohalaelurus favus, commonly referred to as the honeycomb izak or natal izak, is found within a restricted range along the east African coast, from Durban, KwaZulu-Natal, South Africa north to southern Mozambique. The petitioner, citing the IUCN assessment (Human, 2009b) notes that very little information is known about the habitat, ecology, population size and status of the shark, nor is this information available in our files. In the late 1960s and early 1970s, *H. favus* was commonly caught and recorded from fishing trawls (Human, 2009b). However, by the mid-1970s, it had seemingly disappeared; no longer showing up in trawl catches (Human, 2009b). The cause of the disappearance is unknown. Furthermore, a number of extensive surveys that have been conducted in the known range of *H. favus,* including biodiversity research cruises in 2002 and 2003, a survey cruise off Mozambique in 2007, and other more recent biodiversity trawl surveys, have failed to capture any specimens of the species (Human, 2009b), indicating that the species may no longer be found in the wild.

The purpose of the ESA is to conserve species that are in danger of or threatened with extinction. The definition of an endangered species is ''any species which *is* in danger of extinction throughout all or a significant portion of its range'' (Section 3(6)). Species that are already extinct are not protected by the ESA. A review of the best available scientific information provided by the petitioner suggests that *H. favus* may no longer exist in the wild and may already be extinct. Given this available information, as well as the previous discussion about the deficiencies of the general threats information, we conclude that the petition does not present substantial information indicating that *H. favus* may warrant listing as endangered or threatened under the ESA.

Holohalaelurus punctatus, commonly referred to as the whitespotted izak or African spotted catshark, is endemic to the southwestern Indian Ocean. It may be found in depths of around 220–420 m off the coasts of KwaZulu-Natal, South Africa, southern Mozambique, and Madagascar. The petitioner, citing the IUCN assessment (Human, 2009c),

notes that very little information is known about the life history of the species and the population status throughout its range. Historically, the species was commonly caught by commercial and research bottom trawls off South Africa and Mozambique in the late 1960s and early 1970s. However, similar to *H. favus,* catch of the species abruptly declined. The cause of this decline in catch is unknown. Only a single specimen has been collected since 1972, despite recent biodiversity trawl surveys that have been conducted off Mozambique (Human, 2009c). However, the IUCN assessment notes that the species also occurs off Madagascar and its population status and structure in this part of its range is unknown (Human, 2009c). It also states that given the species' presumed depth range, it may be protected from local Madagascar fishermen, with the deep waters off Madagascar thus serving as a possible refuge for this species. However, due to a ''complete lack of information from this part of its range'' the IUCN assessment concluded that the species could not be assessed in Madagascar (Human, 2009c). Even with this substantial lack of information on the species, including its basic life history, population size, structure, status, and likely range, the petitioner contends that the species is in danger of extinction from threats of inadequate regulatory measures (due to a lack of conservation measures for the species) and threats that have yet to be identified.

As stated previously, we do not necessarily consider a lack of species-specific protections as a threat to the species. For example, management measures that regulate other species or fisheries operations may indirectly help to minimize threats to the petitioned species and may be adequate to prevent its extinction. The petition has not provided any information that would lead a reasonable person to assume the abrupt decline in catch was due to a lack of adequate regulatory measures, nor do we have that information in our files. Additionally, the IUCN assessment, cited by the petitioner, highlights the uncertainty surrounding the cause of the observed reduction in catches of the shark off Mozambique when it states ''[i]t is not known whether the reduced population numbers are due to fisheries pressure, habitat loss, pollution, or an as yet unidentified threat.'' The petition uses this statement as support that listing may be warranted for the entire species. However, the information provided by the IUCN assessment indicates that the population of *H. punctatus* found in waters off Madagascar may possibly be stable and protected, suggesting this population is not currently at risk of extinction. In addition, broad statements about generalized threats or identification of factors that could negatively impact a species do not constitute substantial information that listing may be warranted. Thus, after evaluation of the species-specific information presented in the petition, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *H. punctatus.*

Isogomphodon oxyrhynchus, commonly referred to as the daggernose shark, is found in the western Atlantic, ranging from the Caribbean (Trinidad, Guyana, Suriname, and French Guiana) to northern Brazil and possibly in waters off central Brazil (Lessa *et al.,* 2006). The shark occurs in highly turbid, inshore waters, preferring indented coasts with shallow banks, muddy bottoms, and mangrove forests (Lessa *et al.,* 2006). It has been caught in depths of 4–40 m off northern Brazil and is thought to spend most of its life cycle within its range, as no long distance movements have been observed (Lessa *et al.,* 2006). Annual rate of population increase, natural mortality, average reproductive age, and longevity are unknown (Lessa *et al.,* 2006). The species is believed to reach maturity at 6–7 years for females, and 5–6 years for males, with maximum observed sizes of 160 cm total length (TL) and 144 cm TL, respectively (Lessa *et al.,* 2000). Average litter sizes range from 3 to 8 pups, with a gestation time of 12 months and an unknown but possible biennial reproductive periodicity (Lessa *et al.,* 2006).

The shark is primarily caught as bycatch in artisanal floating gillnet fisheries in northern Brazil (Lessa *et al.,* 2006). It is also taken in small numbers by artisanal fishermen in Venezuela, Trinidad, Guyana, Suriname, and French Guiana; however, data are currently lacking for these areas (Lessa *et al.,* 2006). According to a study referenced by the IUCN assessment (Lessa *et al.,* 2006), the population off northern Brazil is thought to be decreasing at a rate of 18.4 percent per year, with substantial declines (>90 percent) over the past 10 years. From November 1983 to February 1985, a survey conducted off northern Brazil showed the species represented around 10 percent of the floating gillnet elasmobranch catch (Lessa, 1986), while a later survey (Stride *et al.,* 1992) reported a catch per unit effort (CPUE) of 71 kg/km/h for the species. Unfortunately, we were unable to review these studies, as they are not in our files and were not provided by the petitioner.

The petitioner asserts that the daggernose shark's continued existence is threatened by the synergistic effects of habitat destruction, overutilization for commercial purposes, inadequate regulatory measures, and the species' biological characteristics. In terms of threats to the species' habitat, the petitioner notes that population growth and subsequent coastal development within the range of the species is degrading the species' habitat and leading to increased pollutants in the coastal waters. The petitioner provides general information about population density within Latin America and the growth of the global population. However, information that the population is growing, on its own, does not indicate that the growing human population is a threat to the species. The petition continues by discussing some potential negative effects from this growth for coastal ecosystems, including increased inputs of nutrients and chemical wastes from run-off pollution, increased sedimentation, deforestation, and the physical destruction of coastal shorelines. While we acknowledge that these may be potential effects of a growing human population, we look to see if the species is directly exposed to and responding in a negative fashion to any of these factors. The petitioner does not provide any information to indicate the species is exposed or negatively responding to any of the identified factors, nor do we have that information in our files. For example, the petition mentions the increasing number of dead zones worldwide but does not provide any evidence that these dead zones occur in areas within the daggernose shark's range, or information on the species' likely response to hypoxic conditions. The petition provides no information on water quality within the daggernose shark's range, or the species' response to factors such as increased sedimentation or nutrients. The petition notes that the daggernose shark occurs in mangrove systems within its range, and cites the destruction of these mangroves as a threat to the species. We reviewed the citation that the petition used as support for this statement (FAO, 2007) but found no evidence that would suggest this is a significant threat to the species' continued existence in its range. The FAO (2007) study examined the status and trends of the world's mangrove areas, including those likely to be within the daggernose shark's

range. For each country with mangrove areas, the study provided the annual change in mangrove area for three time periods: 1980–1990, 1990–2000, and 2000–2005. In Brazil, the study found that the annual change in mangrove area was −0.3 percent, −0.1 percent, and 0 percent for the three periods, but that the majority of this loss was along the southern coast, an area that is outside of the daggernose shark range. For French Guiana, the change was 0 percent for all three periods and the FAO (2007) notes that ''no serious threats seem to pressure the mangroves'' there. For Trinidad, the change was −0.4 percent, −0.2 percent, and 0 percent. For Guyana, the change was −1 percent, −0.3 percent, and 0 percent, with activities that include afforestation and reforestation currently being undertaken (FAO, 2007). In Suriname, the change was noted as ''not significant,'' with mangroves protected in multiple-use management areas (FAO, 2007). Given the above information, which indicates very little loss of mangrove forests within the daggernose shark range, we do not find the petitioner's assertion of mangrove destruction to be a significant threat to the species' continued existence.

The petitioner also contends that overutilization for commercial purposes is placing the species at an increased risk of extinction. Specifically, the petitioner notes that the daggernose shark is caught as bycatch in artisanal floating gillnets in northern Brazil, and repeats the information about CPUE from the Stride *et al.* (1992) survey and the observed decreases in the northern Brazil population as support that the species is being overutilized. The petitioner provides general information about bycatch and the dangers facing shark populations. The petition makes the assumption that fishing pressures are similar throughout all of the species' range and, therefore, similar declines are likely, but provides no information on effort or catch elsewhere. The petition also asserts that the species' biological characteristics, such as slow intrinsic population growth and high natural mortality (neither of which have been estimated) have resulted in a population that cannot rebound from this fishing pressure. The petition also provides general information on the use and trade of shark meat and fins, including import and export data from the countries in the daggernose shark's range. These trade data are for all shark species and products and do not show the relative importance of the daggernose shark in trade. As Compagno (1984b) notes, the daggernose shark meat is ''occasionally marketed but not considered a prime food fish,'' and the species' fins are not valued in the international fin trade (Lessa *et al.,* 2006).

However, given the substantial declines that have been observed in the population (>90 percent) and ongoing declines off northern Brazil, the fact that the species is recorded in artisanal catch throughout its restricted range and, although not targeted, does enter the market, and coupled with its known life history traits which increase its susceptibility to depletion (such as low reproductive rate), we find that the petition presents substantial scientific or commercial information indicating that *I. oxyrhynchus* may be threatened due to overutilization and that listing may be warranted.

Lamiopsis temmincki, commonly referred to as the broadfin shark, is known to occur in the Indian Ocean and Western Pacific, off India, Pakistan, Myanmar, Indonesia, eastern Malaysia, and China. According to Compagno (1984b), it is unknown whether its distribution is sporadic or continuous. It is a continental, inshore shark, and was once common on the west coast of India (Bombay region) but is now found only in low numbers throughout its range. However, according to the IUCN assessment (White *et al.,* 2009), the species ''is taken regularly (but in low numbers) by local fishermen in India (Bombay), Pakistan (Karachi), Sarawak and Kalimantan (Indonesia),'' with its meat used for human consumption, fins traded, and livers used for vitamin oil. Information from our own files also indicates that the species is commonly taken in fisheries operating within its range. In Mukah (Sarawak, Malaysia), *L. temmincki* was the 10th most landed shark from July 2003 to August 2004 (Department of Fisheries Malaysia, 2006). However, we do not have information on population abundance (historical or current) or catch information (numbers or trends), nor are these data provided in the petition. Without this type of information on historical or current abundance or population trends, it is difficult to assess whether the population is at a risk of extinction that may warrant listing.

The petition contends that the species is threatened by destruction of habitat, overutilization by fisheries, inadequate regulatory measures, and synergistic effects, but provides very little to no information or data to support these statements. For example, the petition does not provide any references related to habitat destruction or degradation, just to state that it is ''prolific'' throughout most of the species' range and represents a significant threat. It is unclear on what information the petition (or the IUCN assessment) bases this assertion. Likewise, the petition makes general assumptions regarding the species' extinction risk from the other threats it identifies, such as its life history traits and the lack of species-specific protections, but provides no evidence or information that shows the species is responding in a negative fashion to these threats. We do not consider general assumptions and assertions made by the petitioner as substantial information that listing may be warranted. As such, we find that the petition does not present substantial scientific or commercial information indicating that listing may be warranted for *L. temmincki.*

Mustelus fasciatus, commonly referred to as the striped smooth-hound, is endemic to the Southwest Atlantic, found on the inner continental shelf from south Brazil to Argentina (estimated 1,500 km of coastline) (Hozbor *et al.,* 2004). In southern Brazil, gravid females occur at depths greater than 20 m (up to 250 m deep) but migrate to shallower, inshore waters in the spring to give birth (Hozbor *et al.,* 2004). Neonates and small juveniles will remain in these shallow waters, using them as nursery grounds. Little other life history information is known for this species.

The petition identifies overutilization for commercial purposes and inadequate regulatory mechanisms as threats to the species. According to the IUCN assessment (Hozbor *et al.,* 2004), fishing is intense in the coastal nursery areas of southern Brazil, with evidence the species is caught as bycatch in the shrimp and multi-species fisheries (Haimovici and Mendonca, 1996). These fisheries, which operate using trawl, gillnet, and beach seine gear, catch gravid females during their seasonal inshore migration and juveniles all year-round. In the 1980s, neonates were frequently caught in large numbers (10–100 per gillnet set) off the beach in the summer, but in 2003 their occurrence was characterized as sporadic (Hozbor *et al.,* 2004). In 2002, the state government of Rio Grande do Sul (Brazil) classified *M. fasciatus* as a species threatened with extinction (Hozbor *et al.,* 2004). Farther south, in Uruguay, *M. fasciatus* is caught as bycatch in industrial and artisanal fisheries. According to Hozbor *et al.* (2004), the biomass of *M. fasciatus* in the coastal region of the Bonaerensean District (northern Argentina and Uruguay) decreased by 96 percent between 1994 and 1999, as measured by trawl surveys.

In terms of regulatory measures, the petition indicates that existing regulatory mechanisms are inadequate and have failed to protect the species from both targeted and bycatch mortality. It highlights Brazil's trawl fishing regulation, which prohibits trawling at distances less than 3 nautical miles (5.56 km) from the shore (which would be in depths of less than around 10 m). However, the petition and IUCN assessment contend that enforcement of the law is difficult and that trawling continues to occur in these nursery areas (Hozbor *et al.,* 2004). In addition, gillnetting, which has historically been the primary method to catch neonates within these inshore areas, remains unregulated (Hozbor *et al.,* 2004). Thus, the petition suggests that it is the largely unregulated overutilization of the species that has put the species in danger of extinction.

Given the occurrence of the species in fisheries catch and bycatch data, evidence of substantial declines in biomass (96 percent) and observed decreases in abundance in some areas, as well as information indicating current regulations may be inadequate to protect the species from overutilization, we find that the petition presents substantial scientific or commercial information indicating that listing may be warranted for *M. fasciatus.*

Mustelus schmitti, commonly referred to as the narrownose smooth-hound, is endemic to the southwest Atlantic, and is found in waters off of southwest Brazil, Argentina, and Uruguay (between latitudes 22° S and 48° S) (Massa *et al.,* 2006). It is found in coastal waters to depths of 140 m. A large population is known to migrate seasonally, wintering off southern Brazil and moving south to spend summers off Uruguay and/or Argentina (Massa *et al.,* 2006). There was also a smaller, local population that was known to breed in south Brazil during the spring, but is now thought to be extirpated (Massa *et al.,* 2006).

The petition identifies overutilization and the inadequacy of existing regulatory mechanisms as threats to the species' continued existence. The petition notes that the species experiences heavy fishing pressure throughout its entire range, including in its nursery grounds. In south Brazil, the wintering population is targeted and also caught as a component of the mixed-species fishery. Based on bottom trawl CPUE data, the winter migrant population of south Brazil has decreased by 85 percent between 1985 and 1997 (Massa *et al.,* 2006). The small resident population, that was once common in waters of south Brazil, has apparently disappeared. A summer shore fishery survey, conducted in 2003, failed to record any members of the local population, despite the once common occurrence of neonates in beach seines and bottom trawls in the 1980s (Massa *et al.,* 2006). The IUCN assessment (Massa *et al.,* 2006) attributes this disappearance to intense and continual fishing efforts in the inshore pupping and nursery grounds.

In Argentina, *M. schmitti* is a commercially important species (Chiaramonte, 1998), mainly caught in the multi-species trawl fishery, and its demand in the market has increased (Massa *et al.,* 2006). From 1992 to 1996, total declared landings of the species in Argentina more than doubled, from 5,047.6 mt to 10,271.3 mt (Chiaramonte, 1998). From 1993 to 1996, a survey that examined shark species in 454 Patagonian coastal fishery trawls found *M. schmitti* to be the most frequently caught species (found in 28 percent of the trawls) and it was recorded within all trawling areas (Molen *et al.,* 1998). However, between 1998 and 2002, national Argentinian landings of the species decreased by 30 percent (Massa *et al.,* 2006, citing unpublished data). In Uruguay, the species is taken as bycatch in industrial and artisanal fisheries. Estimated annual capture of both *M. schmitti* and *M. fasciatus* was 900 mt from 2000–2002 (although *M. schmitti* was the main species in the catch; (Massa *et al.,* 2006)). Between 1998 and 2002, biomass of the species decreased by 22 percent in the main fishing areas off Uruguay and Argentina (Massa *et al.,* 2006, citing unpublished data).

In terms of fishery regulations, the petition contends that the only current conservation measure in place for the species is a permitted maximum catch, established by the Argentine fisheries authority, but argues that catch should be set at zero to ensure the species' survival.

Declines of 20 to 30 percent in biomass and landings do not necessarily indicate that a population is at risk of extinction or that catch must be prohibited (especially without additional information regarding the population size or maximum sustainable yield). However, based on the above information provided which shows the species is commercially important, taken in substantial numbers in fisheries within its range, including in nursery grounds and pupping areas, and has experienced large declines (85 percent) in parts of its range, with a potential extirpation of a local population, we find overutilization for commercial purposes may be a threat to the species' current existence. As such, we find that the petition presents substantial scientific or commercial information indicating that listing may be warranted for *M. schmitti.*

The petition requests that we list three species of angel sharks that have similar ranges and are found in coastal and outer continental shelf sediment habitats in the Mediterranean Sea and eastern Atlantic. These three species are *Squatina aculeata, S. oculata,* and *S. squatina.* Angel sharks are bottom dwellers, preferring to spend most of their time buried in the sand or mud. *Squatina squatina* can be found from close inshore (5 m) to at least 150 m in depth (Morey *et al.,* 2006). *S. aculeata* can be found in depths of 30 to 500 m, and *S. oculata* occurs in depths of over 20 to 500 m (Morey *et al.,* 2007a; 2007b). The historical range of *S. squatina* extended along the eastern Atlantic, from Scandinavia to Mauritania and the Canary Islands, and included the Mediterranean and Black seas. The historical range of *S. aculeata* extended from the Mediterranean Sea (western and central basins) to the eastern Atlantic, from Morocco to Namibia, and the historical range of *S. oculata* extended throughout the Mediterranean and in the eastern Atlantic, from southern Portugal to Namibia. Many of the life history traits of these angel sharks are unknown, including the age at maturity, reproductive periodicity, productivity, and natural mortality. *Squatina aculeata* is thought to mature around 124 cm, with maximum size achieved at around 188 cm (Morey *et al.,* 2007a). *Squatina oculata* sizes at maturity range from 71 to 100 cm, with maximum size of 160 cm, and *S. squatina* mature at sizes of 80 to 169 cm (depending on sex), with a maximum size of up to 244 cm (Morey *et al.,* 2006; 2007b).

The petition identifies bottom trawling, human population growth, overutilization, inadequacy of existing regulatory measures, and isolation of populations as potential threats to the existence of these species. The petition notes that identifying angel sharks down to species is difficult and so many of the fishing records identify catch only to the genus level. In the Mediterranean, historical records from the late 1800s to early 1900s show a decline in the number of angel sharks caught in tuna traps that were operating in Baratti (Northern Tyrrhenian Sea) (Morey *et al.,* 2006; 2007a; 2007b). From 1898 to 1905, catches of angel sharks averaged 134 sharks per year, but from 1914–1933, this average declined to only 15 sharks per year (Morey *et al.,* 2006; 2007a; 2007b). As these years coincided with

the beginning of trawling activity in the area, the IUCN assessments (Morey *et al.,* 2006; 2007a; 2007b) attribute the decline in catch specifically to trawl fishing, noting that angel sharks, which dwell near or on the bottom, are especially susceptible to this type of fishing activity.

The petition notes that this bottom trawling activity has continued to increase in both intensity and efficiency on the Mediterranean shelf and slope over the last 50 years, and, as such, is a threat to the angel shark species existence. The petition states that the three species are now rare or absent from most of the northern Mediterranean coastline (Morey *et al.,* 2006; 2007a; 2007b), as evidenced by species-specific catch data from two major trawl surveys that were conducted in the north Mediterranean: the Mediterranean International Trawl Survey (MEDITS) and the Italian National Project. During the MEDITS program (1995–1999), tows were made in depths of 10–800 m along the north Mediterranean coastline, from west Morocco to the Aegean Sea. Out of the 9,095 tows, *S. squatina* appeared in two, *S. aculeata* appeared in one, and *S. oculata* was not present in any of the tows (Morey *et al.,* 2006; 2007a; 2007b). Biomass estimates were only provided for *S. squatina,* with total biomass estimated to be 14 mt throughout the survey area, equating to about 1,400 sharks (Morey *et al.,* 2006). The Italian National Project survey (1985–1998) did not report any catches of *S. aculeata* or *S. oculata* from the 9,281 hauls conducted in the northern Mediterranean (Morey *et al.,* 2007a; 2007b). *S. squatina* were caught in only 0.41 percent of the hauls (Morey *et al.,* 2006).

Squatina aculeata is now considered to be absent from the Black Sea and rare in the eastern part of the Mediterranean (Morey *et al.,* 2007a). *Squatina squatina* has also become rare within its range, with evidence of possible local extirpations. For example, it was once recorded in trawl surveys in the Adriatic Sea (in 1948), but the MEDIT surveys conducted in 1998 found no evidence of the species in this area (Morey *et al.,* 2006). In addition, the last reported landing of the species in the northeast Atlantic was in 1998 (compiled from landings records dated 1978 to 2002 for all International Council for the Exploration of the Sea areas), and is now considered extinct in the North Sea (Morey *et al.,* 2006).

Off the Balearic Islands (Spain), *Squatina* sharks were fairly common until the mid-1980s, with records from a lobster gillnet fishery that show angel sharks (likely *S. aculeata* or *S. oculata*) caught on a daily basis (Morey *et al.,* 2007a; 2007b). However, since the mid-1990s, there have been no records of *Squatina* sharks around the Balearic Islands, despite a bottom trawl fishing survey that was conducted at depths where the sharks should be present (between 46 and 1800 m) (Morey *et al.,* 2007a; 2007b). The petition points to evidence that *Squatina* sharks were once targeted and caught by a special net called an 'escaterea' in these waters (Morey *et al.,* 2007a), but reports from fishermen indicate that all species of *Squatina* have undergone dramatic declines over the last 20 years and are likely extirpated from the area (Morey *et al.,* 2006; 2007a; 2007b).

Off the coast of West Africa, these angel shark species are primarily taken as bycatch in industrial demersal trawl fisheries and inshore bottom set gillnets. The IUCN assessments (Morey *et al.,* 2007a; 2007b) provide Portuguese landings data from a fleet fishing in Moroccan and Mauritanian waters that showed landings of the three species peaking in 1990 at 35 t and then decreasing by 95 percent to 1.7 t in 1998, when the fishery subsequently closed. However, the IUCN assessments caution that the level of fishing effort associated with these data is unknown. Citing various personal communications, the IUCN assessments also note that the *Squatina* sharks were common in these waters in the 1970s and 1980s, frequently caught by lines and gillnets; however, according to both artisanal fishermen and observers of the industrial demersal trawl fleets, the species has been depleted and is now only very rarely observed. Morey *et al.,* (2007a) and (2007b) also mention research surveys that were conducted along the coast of West Africa and previously reported catches of *Squatina* species, but noted that no specimens have been captured since 1998 for *S. aculeata* and since 2002 for *S. oculata.*

The petition identifies existing regulations that aim to protect these three species from further declines, but contends that these current regulations are either insufficient or ineffective to protect the existing populations of the three species from extinction. For example, the petition notes that *Squatina* sharks are protected from fishing within six Balearic Islands marine reserves, but suggests that local extirpation of the species are likely in this part of the *Squatina* range, and, therefore, the regulation is not effective in minimizing extinction risk to the existing populations. In 2012, *S. aculeata* was added to Spain's List of Wild Species under Special Protection, which essentially prohibits the capture or trade of the species by Spanish citizens (Morey *et al.,* 2007a). *Squatina squatina* is listed as a prohibited species by the European Union. This listing prohibits EU and third country vessels from fishing for, transporting, or landing the species in EU waters (Morey *et al.,* 2006). Likewise, *S. squatina* is also protected from fishing activities within three nautical miles of English coastal baselines by the UK Wildlife and Countryside Act (Morey *et al.,* 2006). However, as the petition notes, these regulations provide protections for these species in only parts of their ranges, including in some areas where the species are no longer found (northern Mediterranean, northeast Atlantic).

Based on the above information provided by the petition, which shows that these three species were once common and frequently taken in various fisheries but have now noticeably declined in abundance throughout their ranges, with evidence of possible local extirpations, we find that the threats of overutilization and inadequate regulatory measures as described above may be putting the species at an increased risk of extinction. As such, we find that the petition presents substantial scientific or commercial information indicating that listing may be warranted for *S. aculeata, S. oculata,* and *S. squatina.*

The petition also requests that we list three species of angel sharks that are endemic to the southwest Atlantic: *Squatina argentina, S. punctata,* and *S. guggenheim.* According to the IUCN assessments (Vooren and Chiaramonte, 2006; Chiaramonte and Vooren, 2007; IUCN SSG, 2007), there is some controversy regarding the taxonomy of these southwest Atlantic *Squatina* species. In one study, for example, the authors analyzed mitochondrial DNA and indicated that there are only three species of *Squatina* in southern Brazil: *S. argentina, S. guggenheim,* and *S. occulta* (Furtado-Neto and Carr, 2002). In another study (Vooren and Silva, 1991), *S. punctata* was characterized as being the same species as *S. guggenheim.* Based on the information provided in the petition, species-specific data are available for both *S. argentina,* whose validity as a species and occurrence is ''generally agreed upon'' (Vooren and Chiaramonte, 2006), and *S. guggenheim,* whose nomenclature and taxonomy are questionable, but whose occurrence and information on its abundance are represented in the available fisheries data. Although the petition requests us to list *S. punctata,* it provides no specific-specific population or

abundance data, or evidence of its occurrence. The only species-specific information for *S. punctata* provided in the petition corresponds to some life history data from Vooren and Silva (1991), the paper in which the authors synonymize *S. punctata* with *S. guggenheim,* so it is unclear whether this information actually corresponds to *S. punctata* or *S. guggenheim.*

In terms of threats, the petition identifies overutilization of *S. punctata* and provides general angel shark landing statistics and information on CPUE declines. However, Vooren and Chiaramonte (2006) and Chiaramonte and Vooren (2007) note that the landing statistics in southern Brazil (referenced in the petition) refer to *S. guggenheim, S. occulta,* and *S. argentina* combined, but make no mention of *S. punctata.* The petition notes that the sharp decline in landings is ''attributed to recruitment overfishing due to the bottom gillnet fishery;'' however, the citations it uses, which are also referenced by Vooren and Chiaramonte (2006) and Chiaramonte and Vooren (2007), specifically refer to the decline in abundance of *S. argentina* and *S. guggenheim* on the outer shelf of Brazil, not *S. punctata.* The petition also cites declines in angel shark catch in Argentine waters, but the IUCN assessments (Vooren and Chiaramonte, 2006; Chiaramonte and Vooren, 2007; IUCN SSG, 2007) note that the majority of these landings consist almost entirely of *S. guggenheim.* In Uruguay, the IUCN assessments (Vooren and Chiaramonte, 2006; Chiaramonte and Vooren, 2007; IUCN SSG, 2007), citing a personal communication, state that species-specific statistics are not known, but that the largest catches most likely correspond to *S. guggenheim* and *S. argentina.* Given the available information provided by the petitioner, we do not find that the petition has presented substantial evidence that *S. punctata* is a taxonomically valid species for listing.

We will now evaluate the petition's request to list the other two angel shark species in the southwest Atlantic, *S. argentina* and *S. guggenheim. Squatina argentina* is a bottom-dwelling species that occurs from 32° S in Rio Grande, southern Brazil, to 43° S, in northern Patagonia, Argentina (Vooren and Chiaramonte, 2006). It is found offshore, on the shelf and upper continental slope in depths of 120 to 320 m, but has occasionally been observed in 50 m depths (Vooren and Chiaramonte, 2006). It has an estimated maximum size of 138 cm TL (Vooren and Chiaramonte, 2006). *S*quatina *guggenheim* is a smaller angel shark species (maximum size is ~92 cm total length, TL), and occurs from 24° S, in Rio de Janeiro, southern Brazil, to 43° S, northern Patagonia, Argentina) (Chiaramonte and Vooren, 2007). It is also a bottom-dweller and is found at depths of 10 to 80 m in Brazil and from the coast to 150 m in Argentinian waters (Chiaramonte and Vooren, 2007).

The petition identifies overutilization as a threat to the continued existence of both species. These angel sharks are both targeted and caught as bycatch in fisheries operating from southern Brazil to Uruguay. Landing statistics from southern Brazil are combined for *S. argentina, S. guggenheim,* and *S. occulta* as they are hard to distinguish. They show variable catches throughout the years, with peaks of around 2,000 mt for the species assemblage in 1986–1989 and 1993 and then a decrease in catch to around 900 mt in 2003 (Vooren and Chiaramonte, 2006; Chiaramonte and Vooren, 2007). No data are cited in the petition or available in our files since 2003. From 1984 to 2002, CPUE of these angel sharks in otter and pair trawls on the continental shelf declined by around 85 percent (Vooren and Chiaramonte, 2006; Chiaramonte and Vooren, 2007). Research trawl surveys conducted on the outer shelf of southern Brazil in 1986/97 and 2001/02 also found significant declines in angel shark abundance, with *S. guggenheim* and *S. argentina* estimated to be at 15 percent of their original abundance levels (Vooren and Chiaramonte, 2006; Chiaramonte and Vooren, 2007). The petition references the IUCN assessments (Vooren and Chiaramonte, 2006; Chiaramonte and Vooren, 2007) which attribute these decreases to recruitment overfishing specifically by a bottom gillnet fishery that began in 1990 and continues to operate on the outer continental shelf, targeting and taking large numbers of *Squatina* sharks. In addition to being targeted catch, the petition notes that S. *argentina* is also caught (and retained) in significant numbers as bycatch in the trawl and gillnet fishery for monkfish (*Lophius gastrophysus*), which operates on the shelf edge and upper slope (Vooren and Chiaramonte, 2006). In 2001, the estimated bycatch of *S. argentina* in the monkfish gillnet fishery was 1.052 sharks per 100 nets, which equates to a total of 8,689 individuals (Vooren and Chiaramonte, 2006). Vooren and Chiaramonte (2006) note that *S. argentina* was ''one of the most retained bycatch species'' in the monkfish gillnet fishery.

In Argentina, angel shark landings have been decreasing since reaching maximum levels in 1998, with landings almost entirely consisting of *S. guggenheim* (Vooren and Chiaramonte, 2006; Chiaramonte and Vooren, 2007). Citing a study from 1982, Chiaramonte and Vooren (2007) state that annual biomass for angel sharks on the Buenos Aires coast (in 1981/82) was estimated to be around 4,050 mt, with total captures of *Squatina* sharks wavering around 1,000 mt between 1979 and 1984. However, by the 1990s, landings had increased to over 4,000 mt, with maximum landings recorded in 1997 and 1998. Chiaramonte and Vooren (2007) and Vooren and Chaiaramonte (2006) note that these landings consisted almost entirely of *S. guggenheim* (and that *S. argentina* is rare in commercial landings data); however, Molen (1998), citing an anonymous reference, stated that landings of *S. argentina* were 4,300 mt in 1997. In addition, a bottom trawl survey conducted between 1993 and 1996 found *S. argentina* to be of medium frequency in Patagonian coastal trawl fisheries, showing up as bycatch in 15.4 percent of the 454 trawls (Molen, 1998). Therefore, it appears that both *S. argentina* and *S. guggenheim* may have been present and fairly abundant in the late 1990s in Argentine waters. In 1998, the gillnet fleet of Puerto Quequen considered angel sharks to be the second most important fish in their catch (Chiaramonte and Vooren, 2007). Landings of these angel sharks have since decreased from the 1997/98 peak levels, dropping to 3,550 mt in 2003 (Chiaramonte and Vooren, 2007). The petition indicates that the overall negative trend in these landings data (from 1998 to 2003) is also reflected in the 58 percent decline in CPUE of the angel shark that was calculated for the coastal bottom trawl fleet in Argentina (Chiaramonte and Vooren, 2007).

In Uruguay, species-specific statistics are unavailable, but the petition notes that angel sharks are taken as bycatch in industrial and artisanal fisheries. Total *Squatina* shark captures have been estimated at 300 to 400 mt per year since 1997, with the majority likely *S. guggenheim* and *S. argentina* (based on personal communications provided to Chiaramonte and Vooren (2007) and Vooren and Chiaramonte (2006)).

The petition also identifies inadequate regulatory measures and the species' low reproductive potential as threats to the continued existence of both species. The petition, citing the IUCN assessments, states that there are currently no regulations to manage the angel shark fishery that operates on the continental shelf off southern Brazil. However, a management plan for the gillnet monkfish fishery, which takes

substantial numbers of *S. argentina* as bycatch, was approved in 2005 and thus may help to minimize the threat of overutilization to the species in this area (Vooren and Chiaramonte, 2006). The petition also notes that Argentina has set the maximum permitted catch for angel sharks at 4,000 mt (down from 6,000 mt in the years 1995 to 1999), a quota that appears to be similar to the peak landings of the *Squatina* species during the 1990s. However, with declining trends evident in the landings and CPUE of angel sharks, this management measure may not be adequate to protect the species from threats such as overutilization. In addition, the petition asserts that the low reproductive potential of both species makes them especially slow to recover from overutilization and depletion, and thus poses an additional threat to the species' existence. For example, the petition states that pregnant females of *S. guggenheim* are known to abort embryos upon capture in fishing gear, thus further decreasing their reproductive potential even if released alive (Chiaramonte and Vooren, 2007).

After a review of the species-specific information provided in the petition, which shows that *S. argentina* and *S. guggenheim* have and continue to be targeted and taken in various fisheries, with limited regulation of these fisheries and evidence of significant population declines for both species in part of their range, we find that the threats of overutilization and inadequate regulatory measures as described above may be putting the two angel shark species at an increased risk of extinction. As such, we find that the petition presents substantial scientific or commercial information indicating that listing may be warranted for *S. argentina* and *S. guggenheim.*

Squatina formosa, commonly referred to as the Taiwan angel shark, occurs in the northwest Pacific Ocean and East China Sea and is primarily found in waters around northern Taiwan and the East Taiwan Strait (Walsh and Ebert, 2009). It is found on the continental shelf, in depths of around 100–300 m, with a maximum recorded size of 150 cm TL (Walsh and Ebert, 2009). There are no life history details for this species or information on its population size. Although it is found in local Taiwanese fish markets, there have been no catch records of this species (possibly due to the difficulty in distinguishing the species from other angel sharks in the area) (Walsh and Ebert, 2009).

Although the petition contends that the extensive bottom trawling occurring within the range of *S. formosa* has led to overutilization of the species to the point where the species is threatened with extinction, the petition provides no information on catch numbers, population status, or abundance trends for the species. Instead, the petition refers to other angel shark species in different parts of the world that have undergone population declines from intense fishing pressure, and uses this information as a surrogate for evidence of threats to *S. formosa.* While we agree that extensive fishing is occurring within the range of *S. formosa,* the petition has not provided any information on the level of directed fishing or level of bycatch of this particular shark. The petition only notes that there are no catch records of the species but that it is present in the market place. The petition also argues that the triennial reproductive cycle and small litter sizes makes several species of angel sharks more vulnerable to depletion, but specific reproductive information for *S. formosa* is not currently known (although it is likely similar to other angel shark species). We do not find that the available information is substantial information indicating that overutilization is a threat to this species such that listing may be warranted.

The petition also contends that there are no conservation measures in place for the species, but states that there are some areas of Chinese waters that are protected from trawling activities. The petition does not provide any additional information on these regulations except to note that these areas may or may not be within *S. formosa'*s range and may not be effectively enforced and therefore ''provide no certain protection'' for the species. It is unclear how the petitioner came to such a conclusion. The petition specifically identifies bottom trawling as a threat to the species, so if this activity were prohibited within certain areas of the species' range, this threat would be decreased and provide some protection to the species.

The petition fails to provide any information on the species' abundance, life history, status, or trends throughout all or a significant portion of the species' range, nor do we have any information in our files. The petition provides no evidence that the species is or has been in decline. The petition provides only general statements and assumptions regarding threats to the species but does not provide evidence to suggest these threats are acting upon the species to the point where it may meet the definition of threatened or endangered. As such, we find that the petition does not provide substantial evidence that listing may be warranted for *S. formosa.*

Triakis acutipinna, commonly referred to as the sharpfin houndshark, is found only in the tropical, continental waters off Manabi Province, Ecuador. Little is known about the species' life history, habitat, or ecology. It was first recorded 40 years ago, in waters off Isla de La Plata, and has since been identified in artisanal coastal gillnet fishery landings from the coastal fishing port of Daniel López, Ecuador. However, its occurrence is rare and it is unknown whether the species is taken in other artisanal inshore fisheries. The petition states that the current population size is estimated to be less than 2,500 individuals, based on very few records, and cites the IUCN assessment (Compagno *et al.,* 2009); however, it is unclear how this number was calculated. Neither the IUCN assessment nor the petition provides any references to population size data, records of abundance or occurrence, or information on how the population total was calculated. It appears that the size of the species is only known from two documented adult specimens, a male of 90 cm and a female of 102 cm (Compagno *et al.,* 2009). All other life history parameters are unknown.

The petition acknowledges that little is known about the species and its occurrence in fisheries catch, but contends that the species is landed and perhaps targeted and thus fishing pressure is likely causing a decline and is a threat to its continued existence. In 2004, Ecuador banned directed fishing for sharks in all of its waters; therefore, it is illegal to target the species. Although fishermen can catch sharks as bycatch, information provided in the petition indicates that the species is only rarely caught as bycatch, and has only been observed in landings from the artisanal coastal gillnet fishery in the fishing port of Daniel López (Compagno *et al.,* 2009). As such, we do not find that the available information indicates that overutilization is a threat to the species. In addition, the petition states that regulatory measures are inadequate to protect the species from extinction because trade in shark fins is still allowed, which will ''ensure that the sharpfin houndshark will continue to be a utilized bycatch species.'' However, the petitioner provides no evidence that sharpfin houndshark fins even enter (or are valued in) the shark fin trade. It also states that the meat of sharpfin houndsharks has a higher value than most other species, but does not provide a reference for the statement or any further information that would support the claim that the sharpfin houndshark

is valued in trade, nor do we have that type of information on its trade in our files.

Although the sharpfin houndshark may be a rare species, the petition has not provided any evidence to indicate that the species is currently in decline or that there are any threats that are acting upon the species to the point where it may meet the definition of threatened or endangered. As such, we find that the petition does not provide substantial evidence that listing may be warranted for *T. acutipinna.*

Species-Specific Information for Requested DPSs

This petition also requests that we identify three subpopulations of shark species as DPSs and subsequently list these subpopulations as threatened or endangered under the ESA. In evaluating this request, we must first consider whether the petition provides substantial information that the requested populations may qualify as DPSs under the discreteness and significance criteria of our joint DPS Policy (as noted above in the ''Background'' section). If we find that the petition presents substantial information that the requested populations may qualify as DPSs, we must then determine whether the petitioner provides substantial information that listing may be warranted for those DPSs. Our analyses and conclusions regarding the information presented by the petitioner and available in our files for these petitioned subpopulations are provided below.

Carcharias taurus, commonly referred to as the sandtiger shark, is found in all warm and temperate seas, except the eastern Pacific. They occur in the surf zone, in shallow bays and around coral and rocky reefs, but are also found in depths as great as 191 m on the outer continental shelf (Compagno, 1984a). The petitioner requests that we list the Southwest Atlantic subpopulation of sandtiger shark as threatened or endangered, arguing that it satisfies both the ''discreteness'' and ''significance'' requirements under our DPS policy, and thus qualifies as a DPS.

The petition contends that the Southwest Atlantic subpopulation of sandtiger shark is discrete based on physical, physiological, behavioral, and morphological factors. In terms of physical barriers, the petition states that the population rarely occurs in deep water (greater than 200 m depth; Compagno, 1984a) and uses this as evidence that the species does not mix with the sandtiger sharks found elsewhere. However, the petitioner provides no other information, such as tagging studies, to support its claim of isolation. Additionally, this depth barrier does not explain why mixing would not occur between the Southwest Atlantic population and those sharks found in the Caribbean as well as the Northwest Atlantic.

The petition also states that the Southwest Atlantic population is behaviorally unique because it is more migratory than other *C. taurus* populations, yet does not mix with these other populations, and cites Sardowsky (1970) and Compagno (2001) as support. These references are also used as support for the petitioner's claim that the Southwest Atlantic subpopulation is a 'closed group,' with dentition that differs from all other subpopulations. However, it is unclear how the petitioner came to these conclusions based on the results of these studies. The study by Sardowsky (1970) examined the dentition of specimens of *C. taurus* caught in waters off Cananéia, Brazil, and compared their dental characteristics to sandtigers from other regions. Based on these comparisons, the authors concluded that the sandtiger sharks found off the coast of southern Brazil are not taxonomically distinct from sandtigers found elsewhere in the world. Sardowsky (1970) also states that the northwest Atlantic population and Brazilian populations are not isolated from each other and share some dental character combinations. The Compagno (2001) reference mentions that the sandtiger shark is strongly migratory in certain parts of its range, and lists populations found off Australia, the east coast of the USA, and the east coast of South Africa as sharing this behavior. Lucifora *et al.* (2002) notes that this migratory behavior is likely linked to reproduction and also observed it in sandtigers in the Southwest Atlantic. In fact, the reproductive migration patterns of the Southwest Atlantic sandtigers were noted as similar to those of sandtigers in the northwest Atlantic (Lucifora *et al.,* 2002). Although the petition contends that the Southwest Atlantic sandtiger population has ''its own unique maturation age and size'', Lucifora *et al.* (2002) states that the estimates of maturity size for sandtigers found off Brazil (females = 218–235 cm TL and males = 193 cm TL) are comparable to those for sandtigers off the east coast of the USA (females = 220–229 cm TL; males = 190–195 cm TL), South Africa (females = 220 cm TL; males = 202–220 cm TL), and Australia (females = 220 cm TL). Thus, the available information in our files and provided by the petitioner suggests the Southwest Atlantic population of *C. taurus* shares many of its biological and life history characteristics with populations of *C. taurus* found elsewhere. We therefore find that petitioner has not provided substantial information to indicate that the Southwest Atlantic population of *C. taurus* may qualify as a discrete population based on physical, physiological, behavioral, or morphological factors.

Citing the same information it provided for the discreteness factor discussed above, the petitioner asserts that the Southwest Atlantic population segment is significant to the taxon. However, based on our above analysis, we do not find that the petitioner has provided substantial information that this specific population has biological or ecological significance to the taxon. The available information does not indicate that the population exists in an unusual or unique ecological setting, or that loss of the population would result in a significant gap in the range of the taxon, or that it differs markedly from other populations of the species in its genetic characteristics.

In conclusion, we find that the petitioner has failed to provide substantial information that the Southwest Atlantic population of sandtiger sharks may qualify as a DPS under the discreteness and significance criteria of our joint DPS Policy. As such, we deny the petitioner's request to list the Southwest Atlantic subpopulation of *C. taurus* as threatened or endangered because the available information in our files and provided by the petitioner suggests it is not a ''species'' eligible for listing under the ESA.

Cetorhinus maximus, commonly referred to as the basking shark, is the second largest shark species (reaching lengths of 10 m) and is circumglobal in distribution (Compagno, 2001), observed in boreal to tropical waters (Skomal *et al.,* 2009; Compagno, 2001). Seasonal changes in abundance have been noted for the species, as well as strong sexual segregation in parts of its range (NMFS, 2010). Tagging studies in the Atlantic have discovered that this species is capable of large, trans-oceanic, and trans-equatorial migrations, and may occasionally dive to meso-pelagic depths (200 to 1000 m) (Gore *et al.,* 2008; Skomal *et al.,* 2009). These sharks are filter-feeders and are commonly observed foraging at the surface on zooplankton (NMFS, 2010). The petitioner requests that we list both the North Pacific subpopulation as well as the Northeast Atlantic subpopulation of basking sharks as threatened or

endangered, asserting that these subpopulations satisfy both the ''discreteness'' and ''significance'' requirements under our DPS policy, and thus qualify as DPSs.

For both subpopulations, the petitioner claims that these populations are discrete because they are geographically isolated from other populations of the taxon. The petitioner cites a statement in the IUCN assessments (Fowler, 2009a; 2009b) which reads: ''[t]he different morphological characteristics of Basking Sharks in the Pacific and the north and south Atlantic oceans are not thought to indicate separate species (Compagno 1984), but are geographically isolated subpopulations.'' The petitioner uses this quote as the only source of information to support the claim of discreteness through geographic isolation. In addition, the petitioner uses the above statement as the only support to show that these two subpopulations are also significant to the species. According to the petitioner, the geographic isolation mentioned in the quote is evidence that loss of either subpopulation would result in a significant gap in the range of the taxon, and the morphological differences mentioned in the quote is evidence that the subpopulations are markedly different from other populations of the species based on genetic characteristics. However, the IUCN assessments from which this quote is taken (Fowler, 2009a; 2009b) do not provide any details regarding the different morphological characteristics, such as what they are or which populations exhibit these traits, or explain how these apparent differences indicate geographic isolation. In addition, we reviewed the information on *C. maximus* presented in Compagno (1984a) and found no discussion of morphological differences between the Pacific and the north and south Atlantic basking shark populations.

In our own files, we reviewed a paper by Hoelzel *et al.* (2006), which examined the global genetic diversity of basking sharks by comparing samples of *C. maximus* mitochondrial DNA (mtDNA) taken from the western North Atlantic, eastern North Atlantic, Mediterranean Sea, Indian Ocean and western Pacific. The results of this study showed that there is low genetic diversity in the global basking shark population and no significant genetic differentiation between ocean basins. The authors suggested that this lack of genetic structure in the global basking shark population is likely a result of a population bottleneck event that occurred within the Holocene epoch, but also suggested it could be explained by female mediated gene flow over the entire range of the species (Hoelzel *et al.,* 2006). The latter theory of worldwide panmixia of basking sharks has recently been supported by tagging studies conducted by Gore *et al.* (2008) and Skomal *et al.* (2009). These studies have revealed that basking sharks are capable of making trans-oceanic migrations (with an observed trans-atlantic distance of 9,589 km; Gore *et al.,* 2008) across dynamic oceanographic conditions, from boreal and temperate latitudes to tropical waters (Skomal *et al.,* 2009). As Skomal *et al.* (2009) notes, these new data raise ''the possibility that there may also be migratory connectivity of basking sharks on global spatial scales.''

Based on this information, we do not find evidence that indicates that the North Pacific or Northeast Atlantic subpopulations may qualify as discrete populations under our DPS policy based on physical, physiological, behavioral, or morphological factors, or may qualify as significant populations under our DPS policy based on differences in genetic characteristics. We also find that the petitioner has failed to provide substantial information that would indicate otherwise. As such, we deny the petitioner's request to list the North Pacific or Northeast Atlantic subpopulation of *C. maximus* as threatened or endangered because the available information in our files suggests these subpopulations are not ''species'' eligible for listing under the ESA.

Currently, the basking shark is a NMFS ''Species of Concern'', with a focus on the eastern North Pacific part of its range. ''Species of Concern'' are those species about which NMFS has some concerns regarding status and threats, but for which insufficient information is available to indicate a need to list the species under the ESA. As noted on the basking shark ''Species of Concern'' fact sheet, ''[t]here is no aspect of the movements, behaviors, population size or structure, or life history that isn't data deficient for basking sharks in the eastern North Pacific'' (NMFS, 2010). There is a lack of information on habitat requirements for different life stages of basking sharks and there are still questions regarding key life history characteristics, including age at first reproduction, gestation period, littler size, and mating frequency. Population dynamics, structure, size, geographic range, and genetics are still largely unknown. Without this type of basic information, it is difficult to assess the potential threats to the species and how they may influence abundance and distribution of the species over long and short time scales. The basking shark will remain on our ''Species of Concern'' list until more data become available.

Petition Finding

After reviewing the information contained in the petition, as well as information readily available in our files, including the sections of the petition applicable to all of the petitioned species and subpopulations as well as the species-specific information, we conclude the petition in its entirety does not present substantial scientific or commercial information indicating the petitioned action may be warranted for 13 of the 22 species and subpopulations of sharks. These 13 species and subpopulations are: *Carcharhinus borneensis, Carcharhinus hemiodon, Carcharias taurus* (Southwest Atlantic subpopulation), *Cetorhinus maximus* (North Pacific subpopulation), *Cetorhinus maximus* (Northeast Atlantic subpopulation), *Haploblepharus kistnasamyi, Hemitriakis leucoperiptera, Holohalaelurus favus, Holohalaelurus punctatus, Lamiopsis temmincki, Squatina formosa, Squatina punctata,* and *Triakis acutipinna.* In contrast, as described above, we find that there is substantial scientific or commercial information indicating the petitioned action may be warranted for 9 of the 22 species and subpopulations of sharks and we hereby announce the initiation of a status review for each of these species to determine whether the petition action is warranted. These 9 species are: *Centrophorus harrissoni, Isogomphodon oxyrhynchus, Mustelus fasciatus, Mustelus schmitti, Squatina aculeata, Squatina argentina, Squatina guggenheim, Squatina oculata,* and *Squatina squatina.*

Information Solicited

To ensure that the status review is based on the best available scientific and commercial data, we are soliciting information relevant to whether the nine species we believe may be warranted for listing (*Centrophorus harrissoni, Isogomphodon oxyrhynchus, Mustelus fasciatus, Mustelus schmitti, Squatina aculeata, Squatina argentina, Squatina guggenheim, Squatina oculata,* and *Squatina squatina*) are threatened or endangered. Specifically, we are soliciting information, including unpublished information, in the following areas: (1) Historical and current distribution and abundance of each species throughout its range; (2) historical and current population trends; (3) life history information; (4)

data on trade of these species, including products such as fins, jaws, meat, and teeth; (5) historical and current data on catch, bycatch, retention, and discards in fisheries; (6) ongoing or planned efforts to protect and restore these species and their habitats; (7) any current or planned activities that may adversely impact these species; and (8) management, regulatory, and enforcement information. We request that all information be accompanied by: (1) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (2) the submitter's name, address, and any association, institution, or business that the person represents.

References Cited

A complete list of references is available upon request to the Office of Protected Resources (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 13, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2013–27718 Filed 11–18–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC968

New England and Mid-Atlantic Fishery Management Councils; Public Comment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The New England and Mid-Atlantic Fishery Management Councils seek public comment on a draft amendment to all the fishery management plans under their purview. The omnibus amendment would establish a standardized bycatch reporting methodology for each fishery management plan, as required by the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Comments must be received by December 19, 2013.

ADDRESSES: You may submit written comments by any of the following methods.

- *Email: nmfs.ner.draftSBRM@noaa.gov.* Include in the subject line ''Comments on draft SBRM.''
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on draft SBRM.''
- *Fax:* (978) 281–9135.

Copies of the draft SBRM amendment may be obtained by contacting the NMFS Northeast Regional Office at the above address. The documents are also available via the internet at: *http://nero.noaa.gov/mediacenter/2013/09/draftsbrmamendment.html.*

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Policy Analyst, (978) 281–9341.

SUPPLEMENTARY INFORMATION: Section 303(a)(11) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each fishery management plan (FMP) to include provisions establishing ''a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery.'' The Councils and NMFS are considering an omnibus amendment to establish a standardized bycatch reporting methodology (SBRM) or modify existing SBRMs under every Northeast Region FMP. NMFS had previously implemented an omnibus SBRM amendment recommended by the Councils. That amendment was vacated by a Federal Court and remanded to NMFS and the Councils in order to develop and implement another SBRM amendment consistent with the Court's findings, see *Oceana* v. *Locke et al.* (No. 10–5299). The purpose of the amendment is to respond to the remand; particularly the appellate court's finding that the level of observer coverage was too dependent on the discretion of NMFS. This amendment also would explain the methods and processes by which bycatch is currently monitored and assessed for Northeast Region fisheries, determine whether these methods and processes need to be modified and/or supplemented, establish standards of precision for bycatch estimation for all Northeast Region fisheries and, thereby, to document the SBRM established for all fisheries managed through the FMPs of the Northeast Region. The scope of the omnibus amendment is limited to those fisheries prosecuted in the Federal waters of the Northeast Region and managed through an FMP developed by either the Mid-Atlantic or New England Council.

Alternatives under consideration in the omnibus SBRM amendment address bycatch reporting and monitoring mechanisms, analytical techniques, and allocation of at-sea fishery observers when funding limits the recommended level of observer coverage; establishment of a target level for precision of bycatch estimates; and requirements for reviewing and reporting on the efficacy of the SBRM. NMFS and the Councils will consider all comments received on the draft SBRM amendment and the alternatives for incorporation into the final document until the end of the comment period on December 19, 2013. The public will have several additional opportunities to comment on the SBRM. The final amendment will be considered for approval by the Councils at public meetings in early 2014. Once submitted to NMFS, the final SBRM Amendment will be made available for public review and comment, and regulations will be proposed for review and comment.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 13, 2013.

Kelly Denit,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–27570 Filed 11–18–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0106]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by December 19, 2013.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: DOD Loan Repayment Program (LRP); DD Form 2475; OMB Number 0704–0152.

Type of Request: Extension.

Number of Respondents: 22,391.

Responses per Respondent: 1.

Annual Responses: 22,391.

Average Burden per Response: 10 minutes

Annual Burden Hours: 3,732.

Needs and Uses: This information collection requirement is necessary because the Military Services are authorized to repay student loans for individuals who meet certain criteria and who enlist for active military service or who enter Reserve service for a specific obligated period. Applicants who qualify for the program forward the DD Form 2475 ''DOD Loan Repayment Program (LRP) Annual Application,'' to their Military Service Personnel Office for processing. The Military Service Personnel Office verifies the information and fills in the loan repayment date, address, and phone number. For the Reserve Components, the Military Service Personnel Office forwards the DD Form 2475 to the lending institution. For active-duty service, the Service mails the form to the lending institution. The lending institution confirms the loan status and certification and mails the form back to the Military Service Personnel Office.

Affected Public: Business or other for-profit; individuals.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: November 14, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–27668 Filed 11–18–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Meeting notice.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal advisory committee meeting of the Defense Advisory Committee on Military Personnel Testing. The purpose of the meeting is to review planned changes and progress in developing computerized tests for military enlistment screening.

DATES: Thursday, December 12, 2013, from 9:00 a.m. to 4:00 p.m. and Friday, December 13, 2013, from 9:00 a.m. to 12:00 p.m.

ADDRESSES: The Embassy Suites Hotel O'Hare-Rosemont, 555 North River Road, Rosemont, Illinois, 60018.

FOR FURTHER INFORMATION CONTACT: Dr. Jane M. Arabian, Assistant Director, Accession Policy, Office of the Under Secretary of Defense (Personnel and Readiness), Room 3D1066, The Pentagon, Washington, DC 20301–4000, telephone (703) 697–9271.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to review planned changes and progress in developing computerized tests for military enlistment screening.

Agenda: The agenda includes an overview of current enlistment test development timelines, test development strategies, and planned research for the next 3 years.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. § 552b and 41 CFR §§ 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public.

Committee's Designated Federal Officer or Point of Contact: Dr. Jane M. Arabian, Assistant Director, Accession Policy, Office of the Under Secretary of Defense (Personnel and Readiness), Room 3D1066, The Pentagon, Washington, DC 20301–4000, telephone (703) 697–9271.

Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. Jane M. Arabian at the address or telephone number in **FOR FURTHER INFORMATION CONTACT** no later than December 3, 2013.

Dated: November 14, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–27664 Filed 11–18–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0219]

Privacy Act of 1974; System of Records

AGENCY: Defense Finance and Accounting Service, DoD.

ACTION: Notice to delete a system of records.

SUMMARY: The Defense Finance and Accounting Service is deleting a system of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, as amended. The system of records being deleted is T7108, Base Accounts Receivable System (BARS).

DATES: This proposed action will be effective on December 20, 2013 unless comments are received which result in a contrary determination. Comments will be accepted on or before December 19, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any

personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Outlaw, (317) 212–4591.

SUPPLEMENTARY INFORMATION: The Defense Finance and Accounting Service systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: November 14, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletion:
T7108

SYSTEM NAME:

Base Accounts Receivable System (BARS) (June 16, 2009, 74 FR 28478).

REASON:

System was decommissioned June 13, 2011. All data was archived into an offline database for two years then destroyed, therefore; T7108, Base Accounts Receivable System (BARS) can be deleted.

[FR Doc. 2013–27647 Filed 11–18–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2013–OS–0212]

Privacy Act of 1974; System of Records

AGENCY: National Geospatial-Intelligence Agency, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The National Geospatial-Intelligence Agency is altering an existing system of records in its inventory of record systems subject to the Privacy Act of 1974, as amended. The blanket (k)(1) and (k)(2) exemptions apply to this systems of records to accurately describe the basis for exempting disclosure of classified information that is or may be contained in the records.

DATES: This proposed action will be effective on December 20, 2013 unless comments are received which result in a contrary determination. Comments will be accepted on or before December 19, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: National Geospatial-Intelligence Agency (NGA), ATTN: Human Development Directorate, 7500 GEOINT Drive, Springfield, VA 22150.

SUPPLEMENTARY INFORMATION: The National Geospatial-Intelligence Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/privacy/SORNs/component/ngia/index.html.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on July 29, 2013, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 12, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

NGA–003

SYSTEM NAME:

National Geospatial-Intelligence Agency Enterprise Workforce System (May 24, 2013, 78 FR 31526)

CHANGES:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Human Development Directorate, National Geospatial-Intelligence Agency, 7500 GEOINT Drive, Springfield, VA 22150.''

* * * * *

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete entry and replace with ''Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source. **Note:** When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 552a(b)(1), (2), and (3), (c) and (e) published in 32 CFR part 320. For additional information, contact the system manager.''

[FR Doc. 2013–27463 Filed 11–18–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0213]

Privacy Act of 1974; System of Records

AGENCY: National Geospatial-Intelligence Agency, DoD.

ACTION: Notice to add a new System of Records.

SUMMARY: The National Geospatial-Intelligence Agency is establishing a new system of records in its inventory of record systems subject to the Privacy Act of 1974, as amended. The National Geospatial-Intelligence Agency proposes to add a new system of records notice, NGA–008, National Geospatial-Intelligence Agency Polygraph Records System, to its existing inventory of records systems subject to the Privacy Act of 1974, as amended. This system ensures the integrity in the polygraph

examination process, documents polygraph results, assists with security eligibility determinations and employment or assignment suitability decisions in accordance with applicable laws, regulations and guidance.

DATES: This proposed action will be effective on December 20, 2013 unless comments are received which result in a contrary determination. Comments will be accepted on or before December 19, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: National Geospatial-Intelligence Agency (NGA), ATTN: Security Specialist, Mission Support, MSRS P–12, 7500 GEOINT Drive, Springfield, VA 22150.

SUPPLEMENTARY INFORMATION: The National Geospatial-Intelligence Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy and Civil Liberties Web site at *http://dpclo.defense.gov/privacy/SORNs/component/ngia/index.html.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 17, 2013, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 12, 2013.

Aaron Siegel,

Alternate OSD **Federal Register** *Liaison Officer, Department of Defense.*

NGA–008

SYSTEM NAME:

National Geospatial-Intelligence Agency Polygraph Records System.

SYSTEM LOCATION:

Records are maintained at National Geospatial-Intelligence Agency (NGA) Headquarters in Washington, DC metro facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NGA employees, military personnel, contractors, employed by or assigned to NGA facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Polygraph reports, polygraph charts, polygraph tapes, and notes from polygraph interviews or activities related to polygraph interviews. Identifying information such as, name, date of birth, place of birth, Social Security Number (SSN), company name, contract number, disability data, medical information, gender, grade/rank, employee identification number, and foreign contacts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

50 U.S.C. 402a; Coordination of counterintelligence activities; E.O. 10450, Security requirements for Government employment; E.O. 12968, as amended, Access to classified information; 5 CFR part 732, National security positions; 5 CFR part 736, Personnel investigations; 32 CFR part 147, Adjudicative Guidelines for Determining Eligibility for Classified Information; Director of Central Intelligence Directive (DCID) 6/4, Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information; 5 U.S.C. 301 Departmental Regulations; DoDD 5105.60, National Geospatial-Intelligence Agency (NGA); 5 U.S.C. 7532, Suspension and Removal; E.O. 12958, Classified National Security Information; DoD 5200.2–R, DoD Personnel Security Program; Director of Central Intelligence Directive No. 1/14, Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information (SCI); E.O. 13467, Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To ensure the integrity in the polygraph examination process, document polygraph results, assist with security eligibility determinations and employment or assignment suitability decisions in accordance with applicable laws, regulations and guidance. To assist with investigations into possible violations of NGA rules and regulations, including the possible loss or compromise of classified or protected NGA information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records may be specifically disclosed outside of the DoD as a routine use pursuant to 5 U.S.C. a(b)(3) as follows:

The DoD Blanket Routine Uses set forth at the beginning of NGA's compilation or systems of records notices may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Records may be retrieved by name, employee identification number or SSN.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable NGA automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is strictly limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. Some of the technical controls include, limited, role based access as well as profiles based access to limit users to only data that is needed for the performance of their official duties. The system is located in a secure data center and operated by Federal personnel and contractors.

RETENTION AND DISPOSAL:

NGA will transfer the records to the National Archives and Records Administration when no longer needed

and destroyed/deleted when 10 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Polygraph Branch Chief, Security and Installations Division, Personnel Security, National Geospatial-Intelligence Agency (NGA).

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the National Geospatial-Intelligence Agency (NGA), Freedom of Information Act/Privacy Act Office, 7500 GEOINT Drive, Springfield, VA 22150–7500.

The request envelope and letter should both be clearly marked ''Privacy Act Inquiry.''

The written request must contain your full name, current address, and date and place of birth. Also include an explanation of why you believe NGA would have information on you and specify when you believe the records would have been created.

You must sign your request and your signature must either be notarized or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). Signature)'.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the National Geospatial-Intelligence Agency (NGA), Freedom of Information Act/Privacy Act Office, 7500 GEOINT Drive, Springfield, VA 22150–7500.

The request envelope and letter should both be clearly marked ''Privacy Act Inquiry.''

The written request must contain your full name, current address, and date and place of birth. Also include an explanation of why you believe NGA would have information on you and specify when you believe the records would have been created.

You must sign your request and your signature must either be notarized or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). Signature)'.

CONTESTING RECORDS PROCEDURES:

Individuals contesting the accuracy of records contained in this system of records about themselves should address written inquiries to the National Geospatial-Intelligence Agency (NGA), Freedom of Information Act/Privacy Act Office, 7500 Geoint Drive, Springfield, VA 22150–7500.

The request envelope and letter should both be clearly marked ''Privacy Act Inquiry.''

The written request must contain your full name, current address, and date and place of birth. Also include an explanation of why you believe NGA would have information on you and specify when you believe the records would have been created.

You must sign your request and your signature must either be notarized or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)'.

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). Signature)'.

RECORD SOURCE CATEGORIES:

Information originates from the individual prior to and during the examination.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source. **NOTE:** When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 552a(b)(1), (2), and (3), (c) and (e) published in 32 CFR Part 320. For additional information, contact the system manager.

[FR Doc. 2013–27461 Filed 11–18–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Ocean Research Advisory Panel

AGENCY: Department of the Navy, DoD.

ACTION: Notice of Open Meeting.

SUMMARY: The Ocean Research Advisory Panel will hold a regularly scheduled meeting. The meeting will be open to the public. Members of the public who expect to attend are asked to provide name and citizenship in advance in order to facilitate entry into the office suite.

DATES: The meeting will be held on Tuesday, December 3, 2013, from 9:00 a.m. to 5:30 p.m. and Wednesday, December 4, 2013, from 9:00 a.m. to 12:30 p.m. Members of the public should submit their comments in advance of the meeting to the meeting Point of Contact.

ADDRESSES: The meeting will be held at QinetiQ-North America, 4100 Fairfax Drive, Suite 800, Arlington, VA, 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Joan S. Cleveland, Office of Naval Research, 875 North Randolph Street, Suite 1425, Arlington, VA 22203–1995, telephone 703–696–4532.

SUPPLEMENTARY INFORMATION: This notice of open meeting is provided in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2). The meeting will include discussions on ocean research, resource management, and other current issues in the ocean science and management communities.

Dated: November 8, 2013.

N.A. Hagerty-Ford,

Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2013–27726 Filed 11–18–13; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0122]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Impact Aid Program Application for Section 8003 Assistance

AGENCY: (Insert Principal Office (insert PO acronym), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing [insert one of the following options; a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before December 19, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0122 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E115, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For questions related to collection activities or burden, please call Tomakie Washington, 202–401–1097 or electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Impact Aid Program Application for Section 8003 Assistance.

OMB Control Number: 1810–0687.

Type of Review: Revision of an existing collection of information.

Respondents/Affected Public: State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 501,264.

Total Estimated Number of Annual Burden Hours: 140,676.

Abstract: The U.S. Department of Education is requesting approval for the Application for Assistance under Section 8003 of Title VIII of the Elementary and Secondary Education Act as amended by No Child Left Behind. This application is otherwise known as Impact Aid Basic Support Payments. Local Educational Agencies whose enrollments are adversely affected by Federal activities use this form to request financial assistance. Regulations for the Impact Aid Program are found at 34 CFR part 222. The statute and regulations for this program require a variety of data from applicants annually to determine eligibility for the grants and the amount of grant payment under the statutory formula. The least burdensome method of collecting this required information is for each applicant to submit these data through a web-based electronic application hosted on the Department of Education's e-Grants Web site.

Dated: November 14, 2013.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–27669 Filed 11–18–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0141]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for Grants Under the Credit Enhancement for Charter School Facilities Program

AGENCY: Office of Innovation and Improvement (OII), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing; an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before December 19, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0141or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E115, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For questions related to collection activities or burden, please call Tomakie Washington, 202–401–1097 or electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that

is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Application for Grants under the Credit Enhancement for Charter School Facilities Program.

OMB Control Number: 1855–0007.

Type of Review: Extension without change of an existing collection of information.

Respondents/Affected Public: Private Sector: Not-for-Profit Institutions.

Total Estimated Number of Annual Responses: 20.

Total Estimated Number of Annual Burden Hours: 1600.

Abstract: ED will use the application to award grants under the Credit Enhancement for Charter School Facilities Program (formerly known as the Charter School Facilities Financing Demonstration Program) grants. These grants are made to private, non-profits; public entities; governmental entities; and consortia of these organizations. The funds are to be deposited into a reserve account that will be used to leverage private funds on behalf of charter schools to acquire, construct, and renovate school facilities.

Dated: November 14, 2013.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–27670 Filed 11–18–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0142]

Agency Information Collection Activities; Comment Request; Implementation Study of the Ramp Up to Readiness Program

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before January 21, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0142 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E107, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For questions related to collection activities or burden, please call Katrina Ingalls, 703–620–3655 or electronically mail *ICDocketMgr@ed.gov*. Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Implementation Study of the Ramp Up to Readiness Program

OMB Control Number: 1850—NEW

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or households

Total Estimated Number of Annual Responses: 6,534

Total Estimated Number of Annual Burden Hours: 1,338

Abstract: This study will examine the implementation of Ramp-Up to Readiness, a school wide guidance intervention aimed at increasing the college readiness of students. The intervention is at present being implemented in 34 high schools in Minnesota, and the developers intend to make the intervention available to a much larger set of Minnesota schools. No independently gathered high-quality evidence exists, however, on whether schools are able to implement this comprehensive intervention as intended or how its core components compare to the college-readiness supports in other high schools. The project for which OMB clearance is requested will attempt to gather such evidence from 22 public Minnesota high schools through the least burdensome means. The school-level implementation study will focus on assessing whether Ramp-Up school staff implement the program as intended, on identifying the extent to which the Ramp-Up program differs from the college-readiness supports offered in schools without Ramp-Up, and on the validity of a measure of personal college readiness, which the developers hypothesize is a key mechanism through which the program impacts later outcomes. The study will collect data from school staff in the following activities: Administrative data collection, focus groups in January and June, extant document collection, instructional logs, student and staff surveys, and student personal readiness assessment. The findings produced through analysis of these data will help (1) State education agencies seeking strategies and programs to endorse as a potential means of improving students college readiness and college enrollment, (2) local education agencies that are considering the challenges of implementing Ramp-Up, (3) the developer of this intervention (the College Readiness Consortium at the University of Minnesota) and developers of other college readiness interventions who continually seek to improve their programs by using information from studies like this, and (4) a group of education stakeholders in the Midwest interested in considering

whether to conduct a study of the impacts of the Ramp-Up intervention on student outcomes.

Dated: November 14, 2013.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–27671 Filed 11–18–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; National Institute on Disability and Rehabilitation Research—Disability and Rehabilitation Research Projects and Centers Program—Minority-Serving Institution Field-Initiated Projects Program

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information:

National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Projects and Centers Program—Minority-Serving Institution (MSI) Field-Initiated Projects Program.

Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.133G–4 (Research) and 84.133G–5 (Development).

DATES:

Applications Available: November 19, 2013.

Date of Pre-Application Meeting: December 10, 2013.

Deadline for Transmittal of Applications: February 18, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Field-Initiated (FI) Projects program is to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. Another purpose of the FI Projects program is to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Act).

The purpose of this competition is to improve the capacity of minority entities to conduct high-quality disability and rehabilitation research by limiting eligibility for FI Projects grants to minority entities and Indian tribes. Section 21(b)(2)(A) of the Act authorizes NIDRR to make awards to minority entities and Indian tribes to carry out activities authorized under Title II of the Act.

NIDRR makes two types of awards under the FI Projects program: Research grants and development grants. The MSI FI Projects research grants will be awarded under CFDA 84.133G–4, and the development grants will be awarded under CFDA 84.133G–5.

Note: Different selection criteria are used for FI Projects research grants and development grants. An applicant must clearly indicate in the application whether it is applying for a research grant (84.133G–4) or a development grant (84.133G–5) and must address the selection criteria relevant for its grant type. Without exception, NIDRR will review each application based on the grant designation made by the applicant. Applications will be determined ineligible and will not be reviewed if they do not include a clear designation as a research grant or a development grant.

In carrying out a research activity under an FI Projects research grant, a grantee must identify one or more hypotheses or research questions and, based on the hypotheses or research questions identified, perform an intensive, systematic study directed toward producing (1) new or full scientific knowledge, or (2) better understanding of the subject, problem studied, or body of knowledge.

In carrying out a development activity under an FI Projects development grant, a grantee must use knowledge and understanding gained from research to create materials, devices, systems, or methods beneficial to the target population, including design and development of prototypes and processes. ''Target population'' means the group of individuals, organizations, or other entities expected to be affected by the project. More than one group may be involved since a project may affect those who receive services, provide services, or administer services.

Program Authority: 29 U.S.C. 764 and 29 U.S.C. 718.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 86, and 97. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485. (c) The regulations for this program in 34 CFR part 350.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $110,000,000 for the NIDRR program for FY 2014, of which we intend to use an estimated $200,000 for the MSI FI Projects competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2014 or subsequent years from the list of unfunded applicants from this competition.

Maximum Award: We will reject any application that proposes a budget exceeding $200,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Note: The maximum amount includes direct and indirect costs.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months. We will reject any application that proposes a project period exceeding 36 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the project period through a notice published in the **Federal Register**.

III. Eligibility Information

1. *Eligible Applicants:* Parties eligible to apply for MSI FI Projects grants are limited to minority entities and Indian tribes as authorized by section 21(b)(2)(A) of the Act. A minority entity is defined as a historically black college or university (a part B institution, as defined in section 322(2) of the Higher Education Act of 1965, as amended), a Hispanic-serving institution of higher education, an American Indian tribal college or university, or another IHE whose minority student enrollment is at least 50 percent.

2. *Cost Sharing or Matching:* Cost sharing is required by 34 CFR 350.62 and will be negotiated at the time of the grant award.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the

Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html*.

To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov*.

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.133G–4 or 84.133G–5.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1'' margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative (Part III).

The application package will provide instructions for completing all components to be included in the application. Each application must include a cover sheet (Standard Form 424); budget requirements (ED Form 524) and narrative justification; other required forms; an abstract, Human Subjects narrative, and Part III narrative; resumes of staff; and other related materials, if applicable.

An applicant should consult NIDRR's Long-Range Plan for Fiscal Years 2013–2017 (78 FR 20299) (the Plan) when preparing its application. The Plan is organized around the following research domains: (1) Community Living and Participation; (2) Health and Function; and (3) Employment.

3. *Submission Dates and Times:*

Applications Available: November 19, 2013.

Date of Pre-Application Meeting: Interested parties are invited to participate in a pre-application meeting and to receive information and technical assistance through individual consultation with NIDRR staff. The pre-application meeting will be held on December 10, 2013. Interested parties may participate in this meeting by conference call with NIDRR staff from the Office of Special Education and Rehabilitative Services between 1:00 p.m. and 3:00 p.m., Washington, DC time. NIDRR staff also will be available from 3:30 p.m. to 4:30 p.m., Washington, DC time, on the same day, by telephone, to provide information and technical assistance through individual consultation. For further information or to make arrangements to participate in the meeting via conference call or to arrange for an individual consultation, contact the person listed under *For Further Information Contact* in section VII of this notice.

Deadline for Transmittal of Applications: January 21, 2014.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one-to-two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov. and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov*. To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html*.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/applicants/get_registered.jsp*.

7. *Other Submission Requirements:* Applications for grants under the program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the MSI FI Projects program, CFDA Number 84.133G–4 (Research) or 84.133G–5 (Development), must be submitted electronically using the Governmentwide Grants.gov Apply site at www.Grants.gov. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement*.

You may access the electronic grant application for the MSI FI Projects program, CFDA Number 84.133G–4 (Research) or 84.133G–5 (Development)—at www.Grants.gov. You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.133, not 84.133G).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov*.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a

technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Room 5133, Potomac Center Plaza (PCP), Washington, DC 20202–2700. FAX: (202) 245–7323.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133G–4 (Research) or 84.133G–5 (Development)), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133G–4 (Research) or 84.133G–5 (Development)), 550 12th Street SW., Room 7041, PCP, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the program under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 350.54 and 350.55 and are listed in the application package.

Note: Different selection criteria are used for FI Projects research grants and development grants. An applicant must clearly indicate in the application whether it is applying for a research grant (84.133G–4) or a development grant (84.133G–5) and must address the selection criteria applicable to its grant type.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Additional factors we consider in selecting an application for an award are as follows:

The Secretary is interested in outcomes-oriented research or development projects that use rigorous scientific methodologies. To address this interest, applicants are encouraged to articulate goals, objectives, and expected outcomes for the proposed research or development activities. Proposals should describe how results and planned outputs are expected to contribute to advances in knowledge, improvements in policy and practice, and public benefits for individuals with disabilities. Applicants should propose projects that are designed to be consistent with these goals. We encourage applicants to include in their application a description of how results will measure progress towards achievement of anticipated outcomes (including a discussion of measures of effectiveness), the mechanisms that will be used to evaluate outcomes associated with specific problems or issues, and how the proposed activities will support

new intervention approaches and strategies. Submission of the information identified in this section is voluntary, except where required by the selection criteria listed in the application package.

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* To evaluate the overall success of its research program, NIDRR assesses the quality of its funded projects through a review of grantee performance and products. Each year, NIDRR examines a portion of its grantees to determine:

- The number of products (e.g., new or improved tools, methods, discoveries, standards, interventions, programs, or devices) developed or tested with NIDRR funding that have been judged by expert panels to be of high quality and to advance the field.
- The average number of publications per award based on NIDRR-funded research and development activities in refereed journals.
- The percentage of new NIDRR grants that assess the effectiveness of interventions, programs, and devices using rigorous methods.

For these reviews, NIDRR uses information submitted by grantees as part of their Annual Performance Reports.

Department of Education program performance reports, which include information on NIDRR programs, are available on the Department's Web site: *www.ed.gov/about/offices/list/opepd/sas/index.html.*

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Room 5133, PCP, Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2013–27559 Filed 11–18–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 539–013]

Lock 7 Hydro Partners, LLC; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No:* 539–013.

c. *Date Filed:* September 23, 2013.

d. *Applicant:* Lock 7 Hydro Partners, LLC.

e. *Name of Project:* Mother Ann Lee Hydroelectric Project.

f. *Location:* On the Kentucky River in Mercer and Jessamine Counties, Kentucky.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* David Brown Kinloch, President/CEO, Lock 7 Hydro Partners, LLC, 414 S. Wenzel Street, Louisville, KY 40204, (502) 589–0975.

i. *FERC Contact:* M. Joseph Fayyad at (202) 502–8759, or email: *mo.fayyad@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests: 30 days from issuance date of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file any motion to intervene, protest, comments, and/or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–539–013.

k. *Description of Request:* Lock 7 Hydro Partners, LLC, requests Commission approval to replace the turbine runner for generating unit No. 2. The runner replacement would increase the installed and hydraulic capacities of the unit by 170 kilowatts (kW) and 157 cubic feet per second (cfs), respectively. The project's total installed capacity would change from 2,040 kW to 2,210 kW and its hydraulic capacity from 2,229 cfs to 2,386 cfs.

l. *Locations of the Application:* This filing may be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number P–539 in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above and at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license amendment. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: November 12, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–27609 Filed 11–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD14–7–000]

South Tahoe Public Utility District; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On November 4, 2013, the South Tahoe Public Utility District filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act, as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The CHYDRO Project would be located along the existing C-Line export pipeline in South Tahoe Public Utility District's wastewater treatment system in Alpine County, California.

Applicant Contact: Richard Solbrig, South Tahoe Public Utility District, 1275 Meadow Crest Drive, South Lake Tahoe, CA 96150, Phone No. (530) 544–6474.

FERC Contact: Christopher Chaney, Phone No. (202) 502–6778, email: *christopher.chaney@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A 12-inch-diameter intake pipe branching off the unconstructed, 18-inch-diameter Diamond Valley Ranch Loop pipeline; (2) an approximately 22-foot-wide by 35-foot-long powerhouse, containing one 55-kilowatt turbine/generating unit; (3) a 12-inch-diameter discharge pipe returning flow to the 18-inch-diameter Diamond Valley Ranch Loop; and (4) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 2,135 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA.	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar man-made water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA.	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA.	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: Based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility not required to be licensed or exempted from licensing.

Comments and Motions To Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (e.g., CD14–7) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: November 12, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–27608 Filed 11–18–13; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.2001–2005 (2013).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD14–8–000]

Massachusetts Water Resources Authority; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On November 5, 2013, the Massachusetts Water Resources Authority filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act, as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The Chicopee Valley Aqueduct—Fish Hatchery Pipeline Project would be located along the proposed McLaughlin Fish Hatchery Pipeline at the Massachusetts Water Resources Authority's Ware Disinfection Facility in Hampshire County, Massachusetts.

Applicant Contact: Pamela Heidell, Massachusetts Water Resources Authority, 100 First Avenue, Charlestown Navy Yard, Boston, MA 02129, Phone No. (617) 788–1102.

FERC Contact: Christopher Chaney, Phone No. (202) 502–6778, email: *christopher.chaney@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) An approximately 21-feet-wide by 38-feet-long underground powerhouse vault, containing one 59-kilowatt turbine/generating unit in line with the proposed 20-inch-diameter McLaughlin Fish Hatchery Pipeline; and (2) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 447 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or

deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA.	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar man-made water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA.	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA.	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: Based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility not required to be licensed or exempted from licensing.

Comments and Motions To Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (e.g., CD14–8) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: November 12, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–27605 Filed 11–18–13; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.2001–2005 (2013).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–14–000]

Enable Gas Transmission, LLC; Notice of Application

Take notice that on October 28, 2013, Enable Gas Transmission, LLC (Enable), 1111 Louisiana Street, Houston, Texas 77002, filed in Docket No. CP14–14–000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) requesting the Commission authorize the abandonment, by sell and transfer from Enable to Enable Midstream Partners, LP (EMP), certain facilities and associated appurtenances located in the state of Oklahoma, and to abandon in place the Leedey Purification Facility, also located in the state of Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to B. Michelle Willis, Manager—Regulatory & Compliance, Enable Gas Transmission, LLC, P.O. Box 21734, Shreveport, LA 71151 at (318) 429–3708 or by email at *michelle.willis@CenterPointEnergy.com.*

Specifically, Enable proposes to abandon in place the Leedey Purification Facility and to abandon by sale to EMP the following facilities in Oklahoma: (1) The Leedey Compressor Station, (2) Line AD–36, (3) Line ADT–7, (4) Line ADT–5, and Line ADT–14. Also, Enable seeks a determination that

the facilities will operate as gathering facilities exempt from the Commission jurisdiction under NGA section 1(b).

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit original and 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: December 3, 2013.

Dated: November 12, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–27606 Filed 11–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3246–002; ER13–1266–002.

Applicants: PacifiCorp, CalEnergy, LLC.

Description: Supplement to June 28, 2013 Triennial Market Power Update of PacifiCorp, *et al.*

Filed Date: 11/8/13.

Accession Number: 20131108–5028.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER12–1179–004.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc.'s Informational Filing of Revised Readiness Metrics for Integrated Marketplace.

Filed Date: 11/1/13.

Accession Number: 20131101–5148.

Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: ER13–1857–000.

Applicants: Idaho Power Company.

Description: Idaho Power Company submits November 2013 Supplement to Triennial (DPT) to be effective N/A.

Filed Date: 11/7/13.

Accession Number: 20131107–5100.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER14–343–000.

Applicants: NV Energy, Inc.

Description: OATT Order No. 764, 764–A Compliance—Section 13.8, 14.6, Attachment N to be effective 11/12/2013.

Filed Date: 11/7/13.

Accession Number: 20131107–5074.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER14–344–000.

Applicants: Southwest Power Pool, Inc.

Description: 549R6 Board of Public Utilities, Springfield, MO NITSA and NOA Notice of Cancell to be effective 10/1/2013.

Filed Date: 11/7/13.

Accession Number: 20131107–5077.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER14–345–000.

Applicants: Scotia Commodities Inc.

Description: Scotia Commodities Inc. submits Notice of Cancellation to be effective 11/8/2013.

Filed Date: 11/7/13.

Accession Number: 20131107–5104.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER14–346–000.

Applicants: MATL LLP.

Description: MATL LLP submits Order 1000 Compliance—Attachment K to be effective 12/31/9998.

Filed Date: 11/7/13.

Accession Number: 20131107–5105.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER14–347–000.

Applicants: Pacific Gas and Electric Company.

Description: Notice of Termination of Service Agreement No. 95, Electric

Tariff Volume No. 5 of Pacific Gas and Electric Company.

Filed Date: 11/7/13.

Accession Number: 20131107–5127.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER14–348–000.

Applicants: Louisville Gas and Electric Company.

Description: Louisville Gas and Electric Company submits Order No. 764 Compliance Filing to be effective 11/12/2013.

Filed Date: 11/8/13.

Accession Number: 20131108–5016.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER14–349–000.

Applicants: Tampa Electric Company.

Description: Tampa Electric Company submits OATT Order No. 764 Compliance Filing to be effective 11/12/2013.

Filed Date: 11/8/13.

Accession Number: 20131108–5019.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER14–350–000.

Applicants: NorthWestern Corporation.

Description: NorthWestern Corporation submits OATT Order No. 764 Compliance Filing (Montana) to be effective 1/7/2014.

Filed Date: 11/8/13.

Accession Number: 20131108–5020.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER14–351–000.

Applicants: Louisville Gas and Electric Company.

Description: Louisville Gas and Electric Company submits EKPC 2d Amd IA to be effective 12/1/2013.

Filed Date: 11/8/13.

Accession Number: 20131108–5021.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER14–352–000.

Applicants: Public Service Company of New Mexico.

Description: Public Service Company of New Mexico submits Order No. 764 Compliance Filing to be effective 11/12/2013.

Filed Date: 11/8/13.

Accession Number: 20131108–5032.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER14–353–000.

Applicants: NorthWestern Corporation.

Description: NorthWestern Corporation submits OATT Order No. 764 Compliance Filing (South Dakota) to be effective 1/7/2014.

Filed Date: 11/8/13.

Accession Number: 20131108–5040.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER14–354–000.

Applicants: Florida Power & Light Company.

Description: Florida Power & Light Company submits OATT Order No. 764 Compliance Filing of Florida Power & Light Company to be effective 1/13/2014.

Filed Date: 11/8/13.

Accession Number: 20131108–5067.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER14–355–000.

Applicants: Startrans IO, LLC.

Description: Startrans IO, LLC submits 2014 Update to TRBAA in Appendix I to be effective 1/1/2014.

Filed Date: 11/8/13.

Accession Number: 20131108–5076.

Comments Due: 5 p.m. ET 11/29/13.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES14–10–000.

Applicants: Portland General Electric Company.

Description: Application of Portland General Electric Company for Authority to Issue Short-Term Debt Securities.

Filed Date: 11/7/13.

Accession Number: 20131107–5126.

Comments Due: 5 p.m. ET 11/29/13.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH14–1–000.

Applicants: Isolux Infrastructure Netherlands, B.V.

Description: Isolux Infrastructure Netherlands, B.V. submits FERC–65–B Waiver Notification.

Filed Date: 11/8/13.

Accession Number: 20131108–5033.

Comments Due: 5 p.m. ET 11/29/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 8, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–27613 Filed 11–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC14–24–000.

Applicants: Steele Flats Wind Project, LLC, Tuscola Wind II, LLC.

Description: Application for Authorization under Section 203 of the Federal Power Act and Request for Expedited Action of Steele Flats Wind Project, LLC, et al.

Filed Date: 11/6/13.

Accession Number: 20131106–5165.

Comments Due: 5 p.m. ET 11/27/13.

Docket Numbers: EC14–25–000.

Applicants: CPV Shore, LLC.

Description: CPV Shore, LLC's Section 203 Application for Disposition of Jurisdictional Facilities.

Filed Date: 11/7/13.

Accession Number: 20131107–5043.

Comments Due: 5 p.m. ET 11/29/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1818–004; ER10–1819–005; ER10–1820–007; ER10–1817–005.

Applicants: Public Service Company of Colorado.

Description: Public Service Company of Colorado submits additional information related to the Updated Market Power Analysis for the Northwest Region.

Filed Date: 11/7/13.

Accession Number: 20131107–5054.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER12–2274–003.

Applicants: Public Service Electric and Gas Company, PJM Interconnection, L.L.C.

Description: Public Service Electric and Gas Company submits PSE&G submits compliance filing per 8/30/2013 Order in ER12–2274 to be effective 9/17/2012.

Filed Date: 11/6/13.

Accession Number: 20131106–5164.

Comments Due: 5 p.m. ET 11/27/13.

Docket Numbers: ER14–340–000.

Applicants: Southwestern Public Service Company.

Description: 11–6–13_RS117 SPS–RCEC Op Proc 1 to be effective 11/4/2013.

Filed Date: 11/6/13.

Accession Number: 20131106–5112.

Comments Due: 5 p.m. ET 11/27/13.

Docket Numbers: ER14–341–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits Queue Position Y2–003; Original Service Agreement No. 3654 to be effective 10/8/2013.

Filed Date: 11/7/13.

Accession Number: 20131107–5012.

Comments Due: 5 p.m. ET 11/29/13.

Docket Numbers: ER14–342–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits Amendment to Extend Terms of Eldorado Co-Tenancy and Communication Agreement to be effective 1/1/2014.

Filed Date: 11/7/13.

Accession Number: 20131107–5048.

Comments Due: 5 p.m. ET 11/29/13.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF12–267–000.

Applicants: Holyoke Solar, LLC.

Description: Holyoke Solar, LLC resubmits February 20, 2013 Refund Report as non-privileged document.

Filed Date: 11/6/13.

Accession Number: 20131106–5168.

Comments Due: 5 p.m. ET 11/27/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 7, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–27574 Filed 11–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–153–000.

Applicants: Natural Gas Pipeline Company of America.

Description: EOG Negotiated Rate to be effective 12/1/2013.

Filed Date: 11/6/13.

Accession Number: 20131106–5000.

Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: RP14–155–000.

Applicants: Gulfstream Natural Gas System, L.L.C.

Description: Gulfstream Natural Gas System, L.L.C. submits tariff filing per 154.204: GNGS MSA Filing to be effective 12/9/2013.

Filed Date: 11/6/13.

Accession Number: 20131106–5130.

Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: RP14–156–000.

Applicants: Transcontinental Gas Pipe Line Company.

Description: Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.204: Negotiated Rates—Cherokee AGL—Replacement Shippers to be effective 11/1/2013.

Filed Date: 11/6/13.

Accession Number: 20131106–5162.

Comments Due: 5 p.m. ET 11/18/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 7, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–27603 Filed 11–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR14–5–000.

Applicants: Washington Gas Light Company.

Description: Tariff filing per 284.123(b)(1)/.: WGL TARIFF FILING 2013—Clone to be effective 11/1/2013.

Filed Date: 11/1/13.

Accession Number: 20131101–5166.

Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: RP14–150–000.

Applicants: Enable Gas Transmission, LLC.

Description: Enable Gas Transmission, LLC submits tariff filing per 154.204: Negotiated Rate Filing—November 2013 Tenaska 9840 Att A to be effective 11/5/2013.

Filed Date: 11/5/13.

Accession Number: 20131105–5058.

Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: RP14–151–000.

Applicants: Northwest Pipeline LLC.

Description: Northwest Pipeline LLC submits tariff filing per 154.204: NWP 2013 Housekeeping Filing to be effective 12/5/2013.

Filed Date: 11/5/13.

Accession Number: 20131105–5060.

Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: RP14–152–000.

Applicants: National Grid LNG, LLC.

Description: National Grid LNG, LLC submits tariff filing per 154.204: Housekeeping Filing to be effective 1/1/2014.

Filed Date: 11/5/13.

Accession Number: 20131105–5080.

Comments Due: 5 p.m. ET 11/18/13.

Docket Numbers: RP14–154–000.

Applicants: PDC Energy, Inc., Alliance Petroleum Corporation.

Description: Joint Petition of PDC Energy, Inc. and Alliance Petroleum Corporation for Limited Waiver and Request for Expedited Action.

Filed Date: 11/5/13.

Accession Number: 20131105–5144.

Comments Due: 5 p.m. ET 11/12/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings

can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 6, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–27602 Filed 11–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–152–000]

Elgin Energy Center, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Elgin Energy Center, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is November 28, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 12, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–27614 Filed 11–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–325–000]

Enel Cove Fort, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Enel Cove Fort, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is December 2, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 12, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–27611 Filed 11–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–336–000]

Sunwave USA Holdings Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Sunwave USA Holdings Inc.'s application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard

to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is December 2, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 12, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–27612 Filed 11–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–154–000]

Grand Tower Energy Center, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Grand Tower Energy Center, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is November 28, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 12, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–27616 Filed 11–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–153–000]

Gibson City Energy Center, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Gibson City Energy Center, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability is November 28, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 12, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–27615 Filed 11–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–3–000]

Idaho Power Company; Notice of Initiation of Proceeding and Refund Effective Date

On November 13, 2013, the Commission issued an order that initiated a proceeding in Docket No. EL14–3–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2006), to determine the justness and reasonableness of the market-based rates proposed by Idaho Power Company. *Idaho Power Company,* 145 FERC ¶ 61,122 (2013).

The refund effective date in Docket No. EL14–3–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Dated: November 14, 2013..

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–27657 Filed 11–18–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission, DOE.

DATE AND TIME: November 21, 2013, 10:00 a.m.

PLACE: Room 2C, 888 First Street NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

999TH—MEETING, REGULAR MEETING, NOVEMBER 21, 2013, 10:00 A.M.

Item No.	Docket No.	Company
		Administrative
A–1	AD02–1–000	Agency Business Matters.
A–2	AD02–7–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD07–13–006	2013 Report on Enforcement.
		Electric
E–1	RM13–2–000	Small Generator Interconnection Agreements and Procedures.
E–2	RM13–5–000	Version 5 Critical Infrastructure Protection Reliability Standards.
E–3	RM13–12–000	Monitoring System Conditions—Transmission Operations Reliability Standard.
	RM13–14–000	Transmission Operations Reliability Standards.
	RM13–15–000	Interconnection Reliability Operations and Coordination Reliability Standards.
E–4	RM13–8–000	Electric Reliability Organization Proposal to Retire Requirements in Reliability Standards.
E–5	NJ12–7–000	Bonneville Power Administration.
	NJ12–13–000	
E–6	EL12–98–000	Hudson Transmission Partners, LLC v. New York Independent System Operator, Inc.
E–7	OMITTED	
E–8	OMITTED	
E–9	OMITTED	
E–10	RM13–13–000	Regional Reliability Standard BAL–002–WECC–2—Contingency Reserve.
E–11	OA13–8–000	Genesis Solar, LLC.
E–12	ER13–2412–000	Trans Bay Cable LLC.
E–13	ER13–1612–000	Arizona Public Service Company.
		Gas
G–1	RP09–487–004	High Island Offshore System, L.L.C.
		Hydro
H–1	P–12569–004	Public Utility District No. 1 of Okanogan County, Washington.
H–2	P–2662–012	FirstLight Hydro Generating Company.
	P–12968–001	City of Norwich Department of Public Utilities.
		Certificates
C–1	RM12–11–000	Revisions to Auxiliary Installations, Replacement.
	RM12–11–001	Facilities, and Siting and Maintenance Regulations.
C–2	CP13–8–000	Columbia Gas Transmission, LLC.
C–3	CP13–30–000	Transcontinental Gas Pipe Line Company, LLC.

999TH—MEETING, REGULAR MEETING, NOVEMBER 21, 2013, 10:00 A.M.—Continued

Item No.	Docket No.	Company
C–4	CP12–516–001	Discovery Gas Transmission LLC.

Issued: November 14, 2013.

Kimberly D. Bose,

Secretary.

A free webcast of this event is available through *www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *www.ferc.gov*'s Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or contact Danelle Springer or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 2013–27750 Filed 11–15–13; 11:15 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR14–8–000]

Colonial Pipeline Company; Notice of Petition for Declaratory Order

Take notice that on November 8, 2013, pursuant to Rule 207(a)(2) of the Commission's Rules of Practices and Procedure, 18 CFR 385.207(a)(2)(2013), Colonial Pipeline Company (Colonial) filed a petition requesting a declaratory order approving the tariff rate structure and terms of service agreed to by Contract Shippers in certain transportation service agreements, the proposed prorationing methodology, and the procedure by which excess system capacity is allocated first to eligible Contract Shippers, as explained more fully in the petition.

Any person desiring to intervene or to protest in this proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on December 6, 2013.

Dated: November 12, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–27607 Filed 11–18–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9903–04–OCFO]

Draft FY 2014–2018 EPA Strategic Plan; Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability, request for public comments.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing the availability of the *Draft FY 2014–2018 EPA Strategic Plan* for public review and comment, as part of the periodic update required by the Government Performance and Results Act (GPRA) Modernization Act of 2010 (Pub. L. 111–352). The agency anticipates the final *Strategic Plan* will be submitted to Congress in February 2014. The *Strategic Plan* provides the Agency's long-term direction and strategies for advancing human health and the environment. For this notice, the EPA is seeking comment from individual citizens, states, tribes, local government, industry, the academic community, non-governmental organizations, and all other interested parties. The agency is particularly interested in feedback addressing strategies contained in the goal narratives, cross-cutting fundamental strategies, and strategic measures. The agency made targeted revisions to our existing Plan that seek to advance efforts to address our changing climate, protect our precious water and land resources, and advance chemical safety. The Plan seeks to outline how EPA will make a visible difference in communities across the country by advancing sustainability, innovation and providing sound scientific advice, technical and compliance assistance and other tools that support states, tribes, cities, towns, rural communities, and the private sector. Under this Plan, EPA will continue to improve the way we do business, engaging closely with our public sector partners at all levels and the regulated community to achieve environmental benefits in the most pragmatic, collaborative, and flexible way possible—for our children and future generations.

In addition, the EPA is proposing new FY 2014–2015 Agency Priority Goals—a key component of the

Administration's performance management system—to align more closely with our highest priorities, including improving the health of communities across the country and tackling the issue of climate change.

DATES: Comments must be received on or before January 3, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. *EPA–HQ–OA–2013–0555,* by one of the following methods (electronic submission preferred):

Electronic: *Federal eRulemaking Portal*: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

Fax: ATTN: Vivian Daub, Director, Planning Staff, Fax number: (202) 564–1808.

Mail: ATTN: Vivian Daub, Director, Planning Staff, Office of Planning, Analysis, and Accountability (Mail Code 2723A), Office of the Chief Financial Officer, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

Important: Please allow a minimum of two weeks from date postmarked to allow ample time for receipt.

FOR FURTHER INFORMATION CONTACT: Vivian Daub, Director, Planning Staff, Office of Planning, Analysis, and Accountability, Office of the Chief Financial Officer, *ocfoinfo@epa.gov.*

Instructions: EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/dockets/.*

SUPPLEMENTARY INFORMATION:

Background

The GPRA Modernization Act holds federal agencies accountable for using resources wisely and achieving program results. Specifically, the GPRA Modernization Act requires agencies to develop: *Strategic Plans,* which include a mission statement, set out long-term goals, objectives, and strategic measures, and describe strategies to achieve them over a four-year time horizon; *Annual Performance Plans,* which provide annual performance measures and activities toward the long-term *Strategic Plan;* and, *Annual Performance Reports,* which evaluate an agency's success in achieving the annual performance measures.

The *Draft FY 2014–2018 EPA Strategic Plan* reflects the Administrator's themes for advancing EPA's mission. The *Plan* presents five strategic goals to accelerate protection of human health and the environment and four cross-cutting fundamental strategies for changing the way the agency does business in achieving its results. The five strategic goals are: Addressing Climate Change and Improving Air Quality; Protecting America's Waters; Cleaning Up Communities and Advancing Sustainable Development; Ensuring the Safety of Chemicals and Preventing Pollution; and Protecting Human Health and the Environment by Enforcing Laws and Assuring Compliance. The four cross-cutting fundamental strategies are: Working Toward a Sustainable Future; Working to Make a Visible Difference in Communities; Launching a New Era of State, Tribal, Local, and International Partnerships; and Embracing EPA as a High-Performing Organization. The *Strategic Plan* also identifies a suite of strategic measures by which the agency will hold itself accountable.

Maryann Froehlich,

Acting Chief Financial Officer, Office of the Chief Financial Officer.

[FR Doc. 2013–27676 Filed 11–18–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9903–05–OCFO]

Meeting of the Environmental Financial Advisory Board; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting of the Environmental Financial Advisory Board.

SUMMARY: The United States Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold a public meeting on December 12–13, 2013. EFAB is an EPA advisory committee chartered under the Federal Advisory Committee Act (FACA) to provide advice and recommendations to EPA on creative approaches to funding environmental programs, projects, and activities. This meeting, originally scheduled for October 22–23, 2013, is rescheduled because of the government shutdown.

The purpose of this meeting is to hear from informed speakers on environmental finance issues, proposed legislation, and EPA priorities; to discuss activities, progress, and preliminary recommendations with regard to current EFAB work projects; and to consider requests for assistance from EPA offices.

Environmental finance discussions, and presentations are expected on the following topics: tribal environmental programs; transit-oriented development in sustainable communities, energy efficiency/green house gas emissions reduction; drinking water pricing and infrastructure investment; and green infrastructure.

The meeting is open to the public; however, seating is limited. All members of the public who wish to attend the meeting must register in advance no later than Friday December 6, 2013.

DATES: The full board meeting will be held on Thursday, December 12, 2013 from 9:00 a.m. to 5 p.m., EST and Friday, December 13, 2013 from 9–12 noon., EST.

ADDRESSES: Potomac Yard North, 2777 S. Crystal Drive, Suite 4120, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: For information on access or services for individuals with disabilities, or to request accommodations for a person with a disability, please contact Sandra Williams, U.S. EPA, at (202) 564–4999 or *williams.sandra@epa.gov,* at least 10 days prior to the meeting, to allow as

much time as possible to process your request.

Dated: November 12, 2013.

Joshua Baylson,

Associate Chief Financial Officer.

[FR Doc. 2013–27677 Filed 11–18–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2009–0112; FRL–9902–68]

Toxic Substances Control Act Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of test data on 1-propanesulfonic acid, 2-hydroxy-3-(2-propen-1-yloxy)-, sodium salt (1:1). These data were submitted pursuant to a test rule issued by EPA under the Toxic Substances Control Act (TSCA). The purpose of this notice is to alert the public about test data received between August 1, 2013, and October 31, 2013.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kathy Calvo, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8089; fax number: (202) 564–4765; email address: *calvo.kathy@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are concerned about data on health and/or environmental effects and other characteristics of this chemical substance. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2009–0112, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. Test Data Submissions

Section 4(d) of TSCA (15 U.S.C. 2603(d)) requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under TSCA section 4(a) (15 U.S.C. 2603(a)). Each notice must:

1. Identify the chemical substance or mixture for which data have been received.

2. List the uses or intended uses of such chemical substance or mixture and the information required by the applicable standards for the development of test data.

3. Describe the nature of the test data developed.

EPA has received test data for the following test rule:

EPA received data on 1 chemical substance listed in the TSCA section 4 test rule entitled ''Testing for Certain High Production Volume Chemicals; Third Group of Chemicals,'' published in the **Federal Register** of October 21, 2011 (76 FR 65385) (FRL–8885–5) (docket ID number EPA–HQ–OPPT–2009–0112).

The table in this unit contains the described information required by TSCA section 4(d). See the applicable CFR citation, listed in the title of the table, for test data requirements. Data received can be found by referencing the docket ID number and document number listed in the table. See Unit I.B. for additional information about the docket. EPA reviews of test data are added to the docket upon completion.

TABLE 1—DATA RECEIVED IN RESPONSE TO TSCA SECTION 4 TEST RULE AT 40 CFR 799.5089, TESTING OF CERTAIN HIGH PRODUCTION VOLUME CHEMICALS; THIRD GROUP OF CHEMICALS, DOCKET IDENTIFICATION NUMBER EPA–HQ–OPPT–2009–0112

Chemical identity	Use(s)	Data received	Document number
1-Propanesulfonic acid, 2-hydroxy-3-(2-propen-1-yloxy)-, sodium salt (1:1) (CAS No. 52556–42–0).	Polymerizable surfactant for vinylic systems; antistatic properties; promotes adhesion of pigments; emulsion polymerization in paper, textile, fiber, and adhesives industries.	Biodegradation; Acute Toxicity to Fish; Acute Toxicity to Daphnia; Toxicity to Algae; Acute Inhalation Toxicity in Rats; Bacterial Reverse Mutation; *In Vitro* Mammalian Chromosome Aberration; Repeated Dose/Reproduction Development Toxicity.	0146

Note: CAS No. = Chemical Abstracts Service Registry Number.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Hazardous substances.

Dated: November 12, 2013.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2013–27729 Filed 11–18–13; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice: 2013–0053]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP088217XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter). Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction.

DATES: Comments must be received on or before December 16, 2013 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through Regulations.gov at *WWW.REGULATIONS.GOV.* To submit a comment, enter EIB–2013–0053 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2013–0053 on any attached document.

Reference: AP088217XX.

Purpose and Use:

Brief description of the purpose of the transaction:

To support the export of U.S.-manufactured business jet aircraft.

Brief non-proprietary description of the anticipated use of the items being exported:

To be used for executive air transportation.

To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported are not expected to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties:

Principal Supplier: Gulfstream Aerospace Corporation, Savannah, GA.

Obligor: Minsheng Financial Leasing Co., Ltd., Beijing, China.

Guarantor(s): N/A.

Description of Items Being Exported:

Gulfstream business jet aircraft.

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

Cristopolis Dieguez,

Program Specialist, Office of the General Counsel.

[FR Doc. 2013–27604 Filed 11–18–13; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 06–122; DA 13–2090]

Proposed Changes to FCC Form 499–A, FCC Form 499–Q, and Accompanying Instructions.

AGENCY: Federal Communications Commission.

ACTION: Notice; correction.

SUMMARY: The Federal Communications Commission published a document in the **Federal Register** on November 5, 2013 concerning a request for comment on proposed revisions to (1) the annual Telecommunications Reporting Worksheet, FCC Form 499–A (Form 499–A) and accompanying instructions (Form 499–A Instructions) to be used in 2014 to report 2013 revenues, and (2) the quarterly Telecommunications Reporting Worksheet, FCC Form 499–Q (Form 499–Q) and accompanying instructions (Form 499–Q Instructions) to be used in 2014 to report projected collected revenues on a quarterly basis. The document had an error in the Supplementary section of the notice.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Charles Eberle, Wireline Competition Bureau at (202) 418–7400 or via the Internet at *Charles.Eberle@fcc.gov.*

Correction

In the **Federal Register** on November 5, 2013, in FR Doc. 2013–26482, on page 66358 make the following corrections:

1. On page 66358, in the Supplementary section, in the 1st column, under paragraph C of II Discussion, ''pages 10–11'' is corrected to read ''page 10.''

2. On page 66358, in the Supplementary section, in the 1st column, under paragraph D of II Discussion, ''page 12'' is corrected to read ''page 11.''

3. On page 66358, in the Supplementary section, in the 1st column, under paragraph E of II Discussion, ''page 12'' is corrected to read ''page 11.''

4. On page 66358, in the Supplementary section, in the 2nd column, under paragraph F of II Discussion, ''page 15'' is corrected to read ''page 14.''

5. On page 66358, in the Supplementary section, in the 2nd column, under paragraph G of II Discussion, ''page 19'' is corrected to read ''page 18.''

6. On page 66358, in the Supplementary section, in the 2nd column, under paragraph H of II Discussion, ''pages 23–27'' is corrected to read ''pages 22–26.''

7. On page 66358, in the Supplementary section, in the 2nd column, under paragraph I of II Discussion, ''page 28'' is corrected to read ''page 27.''

Federal Communications Commission.

Kimberly Scardino,

Division Chief, Telecommunications Access Policy Division Wireline Competition Bureau.

[FR Doc. 2013–27725 Filed 11–18–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Notice of Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, November 21, 2013 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Draft Advisory Opinion 2013–15: Conservative Action Fund.

Draft Advisory Opinion 2013–16: PoliticalRefund.org.

Draft Advisory Opinion 2013–17: Tea Party Leadership Fund.

Draft Interpretive Rule Re Date of Political Party Nominations of Candidates for Special Primary Elections in New York.

Management and Administrative Matters.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley E. Garr,

Deputy Secretary of the Commission.

[FR Doc. 2013–27742 Filed 11–15–13; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 13, 2013.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *South Georgia Bank Holding Company,* Omega, Georgia; to merge with Dooly Bancshares, Inc., and thereby indirectly acquire Bank of Dooly both in Vienna, Georgia.

Board of Governors of the Federal Reserve System, November 14, 2013.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2013–27641 Filed 11–18–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Notice of Sunshine Act Meeting

TIME AND DATE: 10:00 a.m. (Telephonic Eastern Time) November 25, 2013.

PLACE: 10th Floor Board Meeting Room, 77 K Street NE., Washington, DC 20002.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

Open to the Public

1. Approval of the Minutes of the October 28, 2013 Board Member Meeting
2. Thrift Savings Plan Activity Reports by the Executive Director
   a. Monthly Participant Activity Report
   b. Monthly Investment Policy Report
   c. Legislative Report
3. Quarterly Metrics Report

CONTACT PERSON FOR MORE INFORMATION: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: November 15, 2013.

James B. Petrick,

Secretary, Federal Retirement Thrift Investment Board.

[FR Doc. 2013–27814 Filed 11–15–13; 4:15 pm]

BILLING CODE 6760–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–MK–2013–11; Docket No. 2013–0002; Sequence No. 36]

The Presidential Commission on Election Administration (PCEA); Upcoming Public Advisory Meeting

AGENCY: Office of Government-Wide Policy, U.S. General Services Administration (GSA).

ACTION: Meeting Notice.

SUMMARY: The Presidential Commission on Election Administration (PCEA), a Federal Advisory Committee established in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C., App., and Executive Order 13639, as amended by EO 13644, will hold a meeting open to the public on Tuesday, December 3, 2013.

DATES: The meeting will be held on Tuesday, December 3, 2013, beginning at 9:00 a.m. Eastern Standard Time, and ending no later than 12:00 p.m. Eastern Standard Time with no public comment period.

ADDRESSES: The PCEA will convene its meeting in the Ronald Reagan Building, 1300 Pennsylvania Ave NW., Washington, DC 20004. This site is accessible to individuals with disabilities. The meeting may also be webcast or made available via audio link. Please refer to PCEA's Web site, *http://www.supportthevoter.gov,* for the most up-to-date meeting agenda and access information.

SUPPLEMENTARY INFORMATION:

Background: The PCEA was established to identify best practices and make recommendations to the President on the efficient administration of elections in order to ensure that all eligible voters have the opportunity to cast their ballots without undue delay, and to improve the experience of voters facing other obstacles in casting their ballots.

Attendance at the Meeting: Individuals interested in attending the meeting must register in advance because of limited space. Please contact Mr. Nejbauer at the email address above to register to attend this meeting. To attend this meeting, please submit your full name, organization, email address, and phone number to Mark Nejbauer by 5:00 p.m. Eastern Standard Time on Friday, November 29, 2013. Detailed meeting minutes will be posted within 90 days of the meeting.

Procedures for Providing Public Comments: In general, public comments will be posted on the PCEA Web site (see above). All comments, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. Any comments submitted in connection with the PCEA meeting will be made available to the public under the provisions of the Federal Advisory Committee Act.

The public is invited to submit written materials by either of the following methods:

Electronic or Paper Statements: Submit electronic statements to Mr. Nejbauer, Designated Federal Officer at *mark.nejbauer@supportthevoter.gov;* or send three (3) copies of any written statements to Mr. Nejbauer at the PCEA GSA address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Nejbauer, Designated Federal Officer, General Services Administration, Presidential Commission on Election Administration, 1776 G Street NW., Washington, DC 20006, email *mark.nejbauer@supportthevoter.gov.*

Dated: November 14, 2013.

Anne Rung,

Associate Administrator, Office of Government-Wide Policy, General Services Administration.

[FR Doc. 2013–27675 Filed 11–18–13; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–14–14CL]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to LeRoy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

An Investigation of Lung Health at an Indium-Tin Oxide Production Facility—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. The Occupational Safety and Health Act, Public Law 91–596 (section 20[a] [1]), authorizes NIOSH to conduct research to advance the health and safety of workers. NIOSH is proposing to conduct a study regarding the lung health of workers at an indium-tin oxide production facility.

Indium-tin oxide (ITO) is a sintered material used in the manufacture of devices such as liquid crystal displays, touch panels, solar cells, and architectural glass. Indium lung disease is a novel, potentially fatal industrial disease that has occurred in workers making, using, or recycling ITO. This project aims to understand and prevent this occupational lung disease by investigating the relationship between exposure and lung health among current ITO manufacturing workers.

CDC requests Office of Management and Budget (OMB) approval to collect standardized information from current employees of the ITO production facility through an informed consent document, an interviewer-administered questionnaire, and a contact information form. As part of the same project, employees will be offered the opportunity to participate in medical testing and personal air sampling.

The questionnaire will collect contact information, demographic information, respiratory symptoms and diagnoses, work history, and cigarette smoking history. The questionnaire will allow NIOSH to report individual medical test results to each participant and to analyze aggregate data from the workforce to determine risk factors for abnormal lung health indices derived from the medical test results. The individual results will be used by employees and their personal physicians to make medical decisions, such as whether to pursue additional testing. The aggregate results will be used by NIOSH, facility management, and employees in ongoing efforts to reduce exposures and monitor key health indices.

For this study, we will recruit all current employees of the ITO production facility. Participation is voluntary. Employees who wish to participate in the questionnaire and medical testing will review and sign an informed consent document. Employees who wish to participate in the personal air sampling and would like to receive personal results will complete a contact information form. We anticipate approximately 100 study participants. The questionnaire will be administered privately at the workplace during normal working hours by trained NIOSH staff. Employees who are not available at the workplace during the study will be offered the opportunity to respond to the questionnaire at a later date by telephone. There are no costs to participants other than their time.

The total estimated burden for the one-time collection of data is 66 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Current ITO production facility employees.	Informed consent document	100	1	15/60	25
	Questionnaire	100	1	20/60	33
	Contact information form	100	1	5/60	8
Total					66

LeRoy Richardson,

Chief, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–27653 Filed 11–18–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3288–NC]

Patient Protection and Affordable Care Act; Exchanges and Qualified Health Plans, Quality Rating System (QRS), Framework Measures and Methodology

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice with comment.

SUMMARY: This notice with comment describes the overall Quality Rating System (QRS) framework for rating Qualified Health Plans (QHPs) offered through an Exchange. The purpose of this notice is to solicit comments on the list of proposed QRS quality measures that QHP issuers would be required to collect and report, the hierarchical structure of the measure sets and the elements of the QRS rating methodology. In addition, this notice solicits comments on ways to ensure the integrity of QRS ratings, and on priority areas for future QRS measure enhancement and development.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on January 21, 2014.

ADDRESSES: In commenting, refer to file code CMS–3288–NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3288–NC, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3288–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written only to the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Nidhi Singh Shah, (301) 492–5110, for general information. Elizabeth Flow-Delwiche, (410) 786–1718, for matters relating to the Quality Rating System.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

A. Legislative Background

The Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–309) (collectively referred to as the Affordable Care Act) establish Affordable Insurance Exchange or Exchange (also known as a Health Insurance Marketplace or Marketplace) within each state. Qualified individuals and qualified employers in each state will be able to shop for affordable health insurance through Exchanges.

The Department of Health and Human Services (the Secretary) holds primary responsibility for establishing the standards and guidelines for the Exchanges. The Affordable Care Act provides States with the flexibility to establish and operate their own Exchange (State-based Exchange). However, if a state elects not to establish a State-based Exchange or if a state will not have an Exchange that is operational by January 1, 2014, pursuant to section 1321(c)(1) of the Affordable Care Act, the Secretary will establish and operate a Federally-facilitated Exchange in those states. The Affordable Care Act and applicable Exchange regulations establish that health plans offered through an Exchange must meet specific standards to be certified as QHPs and to offer coverage in an Exchange beginning in January 2014.

The Affordable Care Act also requires the Secretary to develop a number of reporting requirements to support the delivery of quality health care coverage offered in the Exchanges. Specifically, sections 1311(c)(3) and (c)(4) of the Affordable Care Act direct the Secretary to develop—(1) a system that rates qualified health plans (QHPs) based on the relative quality and price; and (2) an enrollee satisfaction survey system that assesses the level of enrollee experience (that is, consumer experience) with QHPs. Because we believe that QHP consumer experience is an important part of rating the overall quality of a QHP, we intend to use some of the information collected from the Enrollee

Satisfaction Survey in the Quality Rating System (QRS).

In addition to consumer experience, we believe that the QRS should provide ratings of QHPs based on health care quality, health outcomes, and cost of care. We intend for all QHP issuers to report data at the product level for the initial years of QRS implementation (for example, at the Health Maintenance Organization level or Preferred Provider Organization level). We expect QHPs to provide product-level quality performance data for the QRS in general topics, such as clinical effectiveness of care, patient safety, care coordination, prevention of disease and illness, access to care, member experience, plan services and efficiency, and cost reduction. The QRS ratings should demonstrate sound, reliable, and meaningful information on the performance of QHPs to ultimately support informed decisions by consumers.

We have already promulgated regulations at 45 CFR 155.200(d) that direct Exchanges to oversee implementation of the QRS, and 45 CFR 156.200(b)(5) [1] that directs QHP issuers to report health care quality information to an Exchange. In this notice, we describe the overall QRS framework and the factors that guided the development of the QRS. We solicit comments on the QRS measure sets for QHPs offered to adult individuals and families, (QRS) and for child-only QHPs (Child QRS), the hierarchical structure of the measure sets, and the elements of the rating methodology. We also solicit comments on ways to ensure the integrity of QRS ratings, and the identification of priority areas for future QRS measure enhancement and development.

In future rulemaking, we intend to propose requirements for QHPs and Exchanges regarding the collection and submission of specific quality-related information. In addition, we intend to provide future technical guidance for QHP issuers and Exchanges related to the QRS measure specifications, detailed rating methodology guidelines, and data reporting and procedures.

B. QRS Goals and Principles

We believe that the overarching goal of the QRS is based on two fundamental tenets: (1) Providing comparable and useful information regarding the quality of QHPs offered through the Exchanges to inform consumer and employer choice; and (2) facilitating regulatory oversight of QHPs with regard to the quality standards set forth in the Affordable Care Act. Consequently, we believe that the QRS should provide QHP ratings based on health care quality and outcomes, consumer experience, and cost. We developed the following five general QRS principles to guide the design of the QRS:

- The QRS should produce QHP quality performance information to encourage the delivery of higher-quality health care services, expand access to care, and improve health outcomes for QHP enrollees.
- The QRS should provide sound, reliable, and meaningful quality-related QHP information, which could be used by consumers when comparing health plans, by QHPs for quality improvement, as well as by Exchanges and CMS for QHP certification and regulatory oversight activities.
- The QRS should reflect the goals of the National Strategy for Quality Improvement in Health Care priorities,[2] which includes reporting cross-cutting performance areas (that is, patient safety, prevention, population health, patient engagement, patient experience, and efficient resource use). The QRS should also facilitate reporting on conditions or procedures of significant prevalence and importance (for example, heart disease or breast cancer screening).
- The QRS measures set should be evidence-based and align, to the maximum extent possible, with priority measures currently implemented in federal, state, and private sector programs to minimize QHP issuer burden. We have drawn on our experience administering the Medicare Advantage 5-star rating system in developing this framework, and intend that the development and evolution of the QRS should be public and transparent and should allow for flexibility to incorporate changes in measures and methodologies as medical treatments and technology evolve and the Exchanges mature.

C. QRS Framework

We have developed a framework for creating, implementing, maintaining and revising the QRS. The overall framework consists of the following components that are guided by the QRS goals and principles:

- Performance Information
- Rating Methodology

In total, there are ten associated elements that further clarify the Performance Information and Rating Methodology components (see Table 1 below).

[1] Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers, 77 FR 18310 (Mar. 27, 2012) (to be codified at 45 CFR parts 155, 156, & 157).

[2] See Report to Congress: National Strategy for Quality Improvement in Health Care available at *http://www.ahrq.gov/workingforquality/nqs/nqs2013annlrpt.htm.*

Table 1: QRS Framework

	QRS Component	Element
Goals and Principles	Performance Information	Measures Selection
		Hierarchical Structure
		Organization of Measures
		Data Strategy
	Rating Methodology	Aggregation Rules
		Sampling and Attribution
		Scoring
		Performance Classification Values
		Population and Other Adjustments
		Peer Groups

The goals and principles for the QRS serve as the common thread throughout the QRS framework. The Performance Information component consists of four elements: (1) Measures Selection; (2) Hierarchical Structure; (3) Organization of Measures; and (4) Data Strategy. The Measures Selection element represents the process for selecting and evaluating the measure sets of the QRS. The Hierarchical Structure element establishes how the QRS measure sets are organized for scoring, rating, and reporting purposes. The Organization of Measures element establishes the approach to create composites, domains, and summary indicators ratings. The Data Strategy element, which is discussed in section IV, refers to the procedures for how the measures data will be collected, calculated, submitted and will help to inform how data will be displayed.

The Rating Methodology component aims to define how QHPs will be scored and compared, and as proposed, consists of six elements:

- *Aggregation Rules* would be used to determine how measures should be combined to create useful quality information on health care areas such as diabetes care or preventive health care.
- *Sampling and Attribution* would establish the selection criteria for determining appropriate population samples that yield reliable and valid information.
- *Scoring* would be the process used to convert the raw QRS measures data to points or percentiles on a common numeric scale.
- *Performance Classification* would be used to assign values to the QHP scores; these values would then be used to categorize the QHP's performance.
- *Population and other adjustments* would refer to changes made to raw data or measures to remove potential bias introduced by factors that are not modifiable by the QHP.
- *Peer Groups* would be used to establish a benchmark dataset for comparison of the individual QHP in the performance classification work, most often based on the geographic and time period considerations (for example, current annual distribution of all plans nationally).

II. Performance Information Component

A. Measures Selection

The process used to select the QRS measure sets included a review of existing health plan measures, so that the QRS measures promote consistency and harmonization across State, Federal government entities (for example, CMS) and private-sector efforts. Our review included national measure sets that were relevant to the intended purpose of the QRS and incorporate health plan measures such as the Initial Adult Medicaid Core Set of Health Care Quality Measures, Initial Core Set of Children's Health Care Quality Measures, Clinical Quality Measures for Eligible Professionals, and Medicare Part C and Part D Reporting Requirements, as well as a variety of other quality measurement programs, including health plan accreditation programs.[3] We believe it's important that measures, in the initial years, be specified for health plans (rather than specified for health care providers) to ensure reliable data, reduce QHP burden and facilitate consumer use and comprehension.

Measures selection and measure set evaluation criteria were developed using the National Quality Forum (NQF) Measure Evaluation Criteria and the Measures Application Partnership (MAP) Measure-Selection Criteria.[4] [5]

[3] In addition to the programs and measure sets mentioned above, CMS included the following program measure sets in the environmental scan: eValue8, Consumer Reports Health Plan Rankings, Office of Personnel Management Federal Employee Health Benefit Program; Health Plan Accreditation programs: URAC, National Committee for Quality Assurance, Accreditation Association for Ambulatory Health Care; State Health Monitoring Programs: Maryland HealthChoice Consumer Report Card, California Healthcare Quality Report Card, NY Electronic Quality Assurance Reporting Requirements, Maryland Health Plan Report Card, California Medi-CAL Health Plan Quality Ratings; State Based Exchanges: Oregon Health Insurance Exchange, New York State Health Benefit Exchange California Health benefits Exchange

[4] National Quality Forum. ''Measure Evaluation Criteria, November 2012.'' accessed January 23,

The measure selection criteria, which represent industry-tested criteria and were supported as measure inclusion criteria based on discussions with stakeholders and public comment received in response to a Request for Information (RFI),[6] focuses on the following areas:

- *Importance:* the extent to which the measure is important to making significant gains in health care quality, improving health outcomes, has a high impact (high priority) and is relevant to the Exchange population and benefits covered by QHPs.
- *Performance Gap:* the extent to which the measure demonstrates opportunities for performance improvement based on variation in current health plan performance.
- *Reliability and Validity:* the extent to which the measure produces consistent (reliable) and credible (valid) results.
- *Feasibility:* the extent to which the data related to the measure are readily available or could be captured without undue burden and can be implemented by QHPs.
- *Alignment:* the extent to which the measure is included in one or more existing federal, state or private sector health plan quality reporting programs.

The QRS measure set evaluation criteria were applied to identify measurement gaps in the QRS measure sets and helped to ensure that the proposed QRS measure sets as a whole would best meet the needs of consumers and the Exchanges.

The draft QRS measure sets were evaluated to determine the extent to which the measures were NQF-endorsed and aligned with the NQS priorities. Relevance to the Exchange consumer was evaluated by assessing whether the measure set addressed clinical conditions of moderate or high prevalence or high disease burden (applicable only to the clinical care measures) and whether the measure sets identified the needs of the consumer related to health-plan operations and satisfaction. Relevance of the QRS measure sets to QHPs was evaluated by assessing how well each of the sets addressed the benefit categories required of QHPs as part of the Affordable Care Act essential health benefits requirement;[7] and if the sets complemented other information used by the Exchange to support consumer comparison of health plans or to assist with QHP certification and plan monitoring. The comprehensiveness of the draft QRS measure sets were assessed by examining the measures and ensuring that, to the extent possible based on the availability of health-plan specified measures, the sets included an appropriate mix of clinical care measure types, such as structure, process and outcome measures; experience of care measures; and measures that assess cost/resource use/appropriateness of care and plan management. The draft QRS measure sets were evaluated for the degree to which they promoted equitable access and treatment by considering healthcare disparities, and ways in which the measure sets can capture data to promote strategies that address variations in care. In addition, the draft QRS measure sets were evaluated based on the percentage of measures that demonstrated parsimony, an efficient use of resources, including—(1) the ready availability of automated data (available through existing claims, administrative, survey, and health plan management databases); or (2) whether the measures are publicly reported or currently in use as contractual performance standards between plans and public/private purchasers or between plans and provider organizations or as in accordance with statutory or regulatory requirements.

The draft measure sets were revised and the proposed QRS measure sets were created following this evaluation. The proposed QRS measure sets were also evaluated and reviewed internally by CMS, externally by industry and stakeholders and in a field test using available health plan data. Listening sessions were also conducted for insurers, states and consumer groups.

Although the measures contained in the QRS are consistent with the state-of-science for measuring health care quality, science and technology do not yet allow us to measure or represent the quality of all care delivered through the QHPs. Therefore, the QRS measure set should not be viewed as representative of all care delivered by QHPs.

B. Individual Measures for QRS and Child-Only QRS

QHPs offered in the Exchange may provide family/adult self-only coverage or child-only coverage (child-only QHPs) and therefore, there are two proposed measure sets; the QRS measure set (for family and adult self-only coverage) and a Child-only QRS measure set. Both measure sets were selected based on the above described key criteria. We solicit comments on the proposed measures in the QRS and Child-only QRS listed below in Table 2. The proposed QRS measure set for family/adult self-only coverage consists of a total of 42 measures—29 clinical measures, which encompass health care topics of clinical effectiveness, prevention, access and efficiency; and 13 Consumer Assessment of Healthcare Providers and Systems® (CAHPS) survey measures, which encompass topics such as member experiences with the QHP, providers and health care services, including preventive care. The QRS measure set addresses the essential health benefits for which health plan measures are currently available. The majority (76 percent) of the measures are presently NQF-endorsed and address all six National Quality Strategy priorities. Approximately, 83 percent of the QRS measures are included in at least one of the reviewed Federally-established measure sets (for example, Office of Personnel Management Federal Employee Health Benefit (OPM FEHB), CMS Medicare Stars, CMS Adult Medicaid Core Set,[8] CMS Initial Children's Core Set,[9] Medicare Part C&D Plan Reporting). The remaining measures are used in other state based and private sector health plan reporting programs such as Consumer Reports Health Plan Rankings [10] or through accreditation. QHPs offering family or adult self-only coverage would be required to report on all 42 measures in the QRS measure set.

The Child-only QRS measure set consists of a total of 25 measures—15 clinical measures and 10 CAHPS measures. The Child-only measure set includes a combination of process and outcome measures. The Child-only QRS measure set addresses many of the essential health benefits. The majority of the measures (84 percent) are NQF-endorsed and largely address the six National Quality Strategy priorities. Approximately 80 percent of the measures are included in either the OPM FEHB Set or the CMS Initial Children's Core Set. As with the QRS measure set, the remaining measures in

2013, *http://www.qualityforum.org/docs/measure_evaluation_criteria.aspx.*

[5] Measure Applications Partnership. ''MAP Working Measure Selection Criteria and Working Guide.'' National Quality Forum, December 2012.

[6] Request for Information Regarding Health Care Quality for Exchanges: *http://www.gpo.gov/fdsys/pkg/FR–2012–11–27/pdf/2012–28473.pdf.*

[7] Patient Protection and Affordable Care Act; Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation; Final Rule 78 FR 12834 (Feb. 25, 2013) (to be codified at 45 CFR parts 147, 155 and 156).

[8] Initial Core Set of Health Care Quality Measures for Adults Enrolled in Medicaid (Medicaid Adult Core Set). February 2013.

[9] SHO: #13–002. Letter to State Health Official and State Medicaid Director. Re: 2013 Children's Core Set of Health Care Quality Measures. January 24, 2013.

[10] *http://www.consumerreports.org/health/insurance/health-insurance-plans.htm.*

the child-only set are used state based and private sector health plan reporting programs. Child-only QHPs would be required to report on all 25 measures in the Child-only QRS measure set.

TABLE 2—PROPOSED MEASURE SETS FOR THE QRS AND CHILD-ONLY QRS

Measure title	NQF ID [11]	QRS	Child-only QRS
Adolescent Well-Care Visits	Not currently endorsed	X	X
Adult BMI Assessment	Not currently endorsed	X	
Adults' Access to Preventive and Ambulatory Health Services	Not currently endorsed	X	
Annual Dental Visit	1388	X	X
Annual Monitoring for Patients on Persistent Medications	Not currently endorsed	X	
Antidepressant Medication Management	0105	X	
Appropriate Testing for Children With Pharyngitis	0002	X	X
Appropriate Treatment for Children With Upper Respiratory Infection.	0069		X
Avoidance of Antibiotic Treatment in Adults with Acute Bronchitis	0058	X	
Breast Cancer Screening	Not currently endorsed	X	
CAHPS—Aspirin Use and Discussion	Not currently endorsed	X	
CAHPS—Coordination of Members' Health Care Services	Not currently endorsed [12]	X	X
CAHPS—Cultural Competency	Not currently endorsed [13]	X	X
CAHPS—Customer Service	0006	X	X
CAHPS—Flu Shots for Adults	0039	X	
CAHPS—Getting Care Quickly	0006	X	X
CAHPS—Getting Needed Care	0006	X	X
CAHPS—Global Rating of Health Plan	0006	X	X
CAHPS—Medical Assistance With Smoking and Tobacco Use Cessation.	0027	X	
CAHPS—Plan Information on Costs	0006	X	X
CAHPS—Rating of All Health Care	0006	X	X
CAHPS—Rating of Personal Doctor	0006	X	X
CAHPS—Rating of Specialist Seen Most Often	0006	X	X
Cervical Cancer Screening	0032	X	
Child and Adolescent Access to PCPs	Not currently endorsed		X
Childhood Immunization Status	0038	X	X
Chlamydia Screening in Women (Ages 16–20)	0033		X
Cholesterol Management for Patients With Cardiovascular Conditions: LDL–C Control (<100 mg/Dl).	Not currently endorsed	X	
Cholesterol Management for Patients With Cardiovascular Conditions: LDL–C Screening.	Not currently endorsed	X	
Colorectal Cancer Screening	0034	X	
Controlling High Blood Pressure	0018	X	
Diabetes Care: Eye Exam (Retinal) Performed	0055	X	
Diabetes Care: Hemoglobin A1c (HbA1c) Control <8.0%	0575	X	
Follow-Up After Hospitalization for Mental Illness: 7 days	0576 [14]	X	
Follow-Up Care for Children Prescribed ADHD Medication: Initiation Phase.	0108 [15]	X	X
Follow-Up Care for Children Prescribed ADHD Medication: Continuation and Maintenance Phase.	0108		X
HPV Vaccination for Female Adolescents	1959		X
Immunizations for Adolescents	1407	X	X
Medication Management for People With Asthma	1799	X	
Medication Management for People With Asthma (Ages 5–18)	1799		X
Plan All—Cause Readmissions	1768	X	
Prenatal and Postpartum Care: Postpartum Care	1517	X	
Prenatal and Postpartum Care: Timeliness of Prenatal Care	1517	X	
Relative Resource Use for People with Cardiovascular Conditions—Inpatient Facility Index.	1558	X	
Relative Resource Use for People with Diabetes—Inpatient Facility Index.	1557	X	
Use of Imaging Studies for Low Back Pain	0052	X	
Weight Assessment and Counseling for Nutrition and Physical Activity for Children and Adolescents.	0024		X
Weight Assessment and Counseling for Nutrition and Physical Activity for Children and Adolescents: BMI Percentile Documentation.	0024 [16]	X	
Well-Child Visits in the First 15 Months of Life	1392		X
Well-Child Visits in the Third, Fourth, Fifth, and Sixth Years of Life	1516	X	X

C. Organization and Hierarchical Structure of the QRS Measures

The Performance Information component of the QRS framework guided the proposed structure and hierarchy, as well as the measures that will be included within each level of the hierarchy. In order to be most useful to consumers, rating systems that can present a large collection of measures must be organized into a hierarchical structure. We considered organizing the measures in a manner to maximize the approachability and understandability of the information provided by the QRS. We are proposing hierarchical structures for the QRS and Child-only QRS that allow consumers to easily use information from the QRS in their health plan comparisons for selection of a QHP in the Exchange. We solicit comments on the proposed hierarchical structures outlined in Tables 3 and 4 below.

The fundamental building block of the QRS structure is the individual indicator or measure. The hierarchical structures include composites, which represent the combination of two or more individual indicators or measures that result in a single score. Measures are grouped into composites so large amounts of information can be streamlined and reported in formats that are easy for consumers to comprehend. Grouping measures into composites also helps to reduce random variability, differentiate performance across health plans and provide meaningful information to the consumer. Not all measures in the QRS are part of a composite. Table 3 provides the organization of the proposed QRS measure set for family/adult self-only coverage. The QRS organizes measures and composites into a set of eight domains that represent unique and important aspects of quality: (1) Clinical Effectiveness, (2) Patient Safety, (3) Care Coordination, (4) Prevention, (5) Access, (6) Doctor and Care, (7) Efficiency and Affordability (8) Plan Services. The domains are grouped into three summary indicators which align with CMS priority areas: (1) Clinical Quality Management; (2) Member Experience; and (3) Plan Efficiency, Affordability and Management. The summary indicators organize the domains into broad categories that the consumer may use when evaluating health plan options. All three summary indicators would then be grouped into a single Global Rating. The Global Rating is a score that summarizes all measures, composites and domains in the hierarchical structure of the QRS.

TABLE 3—PROPOSED QRS STRUCTURE

QRS summary indicator	QRS domain	QRS composite	Measure title
Clinical Quality Management	Care Coordination	No Composite	CAHPS—Coordination of Members' Health Care Services.
	Clinical Effectiveness	No Composite	Medication Management for People With Asthma.
		Behavioral Health	Antidepressant Medication Management.
			Follow-Up After Hospitalization for Mental Illness: 7 days.
			Follow-Up Care for Children Prescribed ADHD Medication: Initiation Phase.
		Cardiovascular Care	Cholesterol Management for Patients With Cardiovascular Conditions: LDL–C screening.
			Cholesterol Management for Patients With Cardiovascular Conditions: LDL–C control (<100 mg/Dl).
			Controlling High Blood Pressure.
		Diabetes Care	Diabetes Care: Eye Exam (Retinal) Performed.
			Diabetes Care: Hemoglobin A1c (HbA1c) Control <8.0%.
	Patient Safety	No Composite	Annual Monitoring for Patients on Persistent Medications.
			Plan All-Cause Readmissions.
	Prevention	Checking for Cancer	Breast Cancer Screening.
			Cervical Cancer Screening.
			Colorectal Cancer Screening.
		Maternal Health	Prenatal and Postpartum Care: Postpartum Care.
			Prenatal and Postpartum Care: Timeliness of Prenatal Care.
		Staying Healthy Adult	Adult BMI Assessment.
			CAHPS—Aspirin Use and Discussion.
			CAHPS—Flu Shots for Adults.
			CAHPS—Medical Assistance With Smoking and Tobacco Use Cessation.
		Staying Healthy Child	Annual Dental Visit.
			Childhood Immunization Status.
			Immunizations for Adolescents.
			Weight Assessment and Counseling for Children and Adolescents: BMI Percentile Documentation.
Member Experience	Access	Access Preventive Visits	Adolescent Well-Care Visits.
			Adults' Access to Preventive and Ambulatory Health Services.

[11] Definitions of NQF endorsed measures can be found here: *http://www.qualityforum.org/Home.aspx.*

[12] Only one question within the CAHPS Coordination of Members' Health Care Services composite is currently endorsed (#0007): ''Did your personal doctor seem informed and up-to-date about the medical care you got?''. The remaining questions in the composite are new and have not yet been endorsed.

[13] One of the questions within this CAHPS composite was modified from CAHPS Clinician and Group 2.0, Adult Supplemental (NQF #1904) and the other question is new.

[14] Measure includes only one indicator of the NQF-endorsed measure.

[15] Measure includes only one indicator of the NQF-endorsed measure for the child-only QRS.

[16] Measure includes only one indicator of the NQF-endorsed measure.

TABLE 3—PROPOSED QRS STRUCTURE—Continued

QRS summary indicator	QRS domain	QRS composite	Measure title
			Well-Child Visits in the Third, Fourth, Fifth, and Sixth Years of Life.
		Access to Care	CAHPS—Getting Care Quickly.
			CAHPS—Getting Needed Care.
	Doctor and Care	Doctor and Care	CAHPS—Cultural Competency.
			CAHPS—Rating of All Health Care.
			CAHPS—Rating of Personal Doctor.
			CAHPS—Rating of Specialist Seen Most Often.
Plan Efficiency, Affordability and Management.	Efficiency and Affordability	Efficient Care	Appropriate Testing for Children With Pharyngitis.
			Avoidance of Antibiotic Treatment in Adults with Acute Bronchitis.
			Relative Resource Use for People with Cardiovascular Conditions—Inpatient Facility Index.
			Relative Resource Use for People with Diabetes—Inpatient Facility Index.
			Use of Imaging Studies for Low Back Pain.
	Plan Service	Member Experience with Health Plan.	CAHPS—Customer Service.
			CAHPS—Global Rating of Health Plan.
			CAHPS—Plan Information on Costs.

The hierarchical structure for the proposed Child-only QRS is similar to the proposed QRS. The 25 measures of the Child-only QRS provide the basic foundation of the structure. Not all measures in the Child-only QRS are part of a composite. Table 4 below provides the organization of the proposed Child-only QRS measure set. The Child-only QRS organizes measures and composites into a set of seven domains: (1) Care Coordination, (2) Clinical Effectiveness, (3) Prevention, (4) Access, (5) Doctor and Care, (6) Efficiency and Affordability (7), and Plan Service. The domains are grouped into the same three summary indicators as the QRS: (1) Clinical Quality Management; (2) Member Experience; and (3) Plan Efficiency, Affordability and Management. All three summary indicators would then be grouped into a single Global Child-only Rating.

TABLE 4—PROPOSED CHILD-ONLY QRS STRUCTURE

Child-only summary indicator	Child-only domain	Child-only composite	Measure title
Clinical Quality Management	Care Coordination	No Composite	CAHPS—Coordination of Members' Health Care Services.
	Clinical Effectiveness	No Composite	Medication Management for People With Asthma (Ages 5–18).
		Behavioral Health Child	Follow-Up Care for Children Prescribed ADHD Medication: Initiation Phase
			Follow-Up Care for Children Prescribed ADHD Medication: Continuation and Maintenance (C and M) Phase.
	Prevention	Staying Healthy Child	Annual Dental Visit.
			Childhood Immunization Status.
			Chlamydia Screening in Women (Ages 16–20).
			Immunizations for Adolescents.
			Weight Assessment and Counseling for Children and Adolescents.
			HPV Vaccination for Female Adolescents.
Member Experience	Access	Access Preventive Visits Child.	Adolescent Well-Care Visits.
			Child and Adolescent Access to PCPs.
			Well-Child Visits in the First 15 Months of Life.
			Well-Child Visits in the Third, Fourth, Fifth, and Sixth Years of Life.
		Access to Care	CAHPS—Getting Care Quickly.
			CAHPS—Getting Needed Care.
	Doctor and Care	Doctor and Care	CAHPS—Rating of All Health Care.
			CAHPS—Rating of Personal Doctor.
			CAHPS—Rating of Specialist Seen Most Often.
			CAHPS—Cultural Competency.
Plan Efficiency, Affordability and Management.	Efficiency and Affordability	Efficient Care Child	Appropriate Testing for Children With Pharyngitis.
			Appropriate Treatment for Children With Upper Respiratory Infection.
	Plan Service	Member Experience with Health Plan.	CAHPS—Customer Service.
			CAHPS—Global Rating of Health Plan.

TABLE 4—PROPOSED CHILD-ONLY QRS STRUCTURE—Continued

Child-only summary indicator	Child-only domain	Child-only composite	Measure title
			CAHPS—Plan Information on Costs.

III. QRS Rating Methodology Component

Once the QRS measures are organized and the hierarchical structure is established, the QRS rating methodology would combine health plan measure scores into performance ratings using a set of rules and formulae. We solicit comments on the proposed six elements of the Rating Methodology component that will guide the calculation of the ratings (refer to Section I for the definitions of the elements of the Rating Methodology component). The six elements of the proposed Rating Methodology are grouped within three broad categories (Measure Scoring Rules, Aggregation Rules, and Reference Standards). See Table 5.

TABLE 5—RATING METHODOLOGY CATEGORIES OF ELEMENTS

Category	Rating category elements
Measure scoring rules	Sampling and Attribution. Scoring.
Aggregation Rules	Aggregation Rules.
Reference Standards	Performance Classification values. Population and Other Adjustments. Peer Groups.

Measure Scoring Rules will standardize the individual measure scores so that scores are on the same scale (for example, all percentiles) and can be combined meaningfully. Aggregation Rules will be used to combine measures to create quality constructs, such as diabetes care or preventive health. Reference Standards will determine how scores are converted to categorical ratings (for example, star groups on a scale of one to five) that can be easily understood, compared, and used by consumers. We intend to publish, for review and comment, technical guidance that identifies further details regarding the Rating Methodology component, elements and measure specifications.

IV. QRS Data Strategy

The QRS data strategy refers to how QRS data are collected, calculated, and submitted and will help to inform how data is displayed. We intend to develop a data strategy that would facilitate consistent data collection and calculation across QHPs; and help to ensure the integrity and accuracy of QRS ratings. We solicit comments on potential ways to enhance the QRS data strategy for QHP issuers. We intend to direct QHP issuers to submit validated data to ensure that QRS data displayed for public reporting are accurate, valid and comparable, and to allow consumers objective and meaningful comparisons of the QHPs' quality data. We believe that the ratings assigned must reflect true differences in quality. We intend to display Global Ratings using a five-star scale. While it is our intention for all QHPs in Exchanges to have publicly available ratings, some QHPs may have missing data due to data quality issues or low enrollment in the initial years.

We plan to use a full-scale rule at the global and summary indicator levels, so that these scores are true representations of what they are intended to represent. This method allows the consumer to compare Global Ratings with the important concepts at highest levels of the hierarchy represented (refer to Table 3 for proposed QRS structure). Therefore, we are considering that, for QHPs that are missing any of the domain ratings used for creating the Member Experience or Plan Efficiency, Cost Reduction and Management summary indicators would not have an associated summary indicator rating publically displayed. For the Clinical Quality Management indicator, QHPs must have the Care Coordination, Clinical Effectiveness, and Prevention domains present to have the summary indicator rating publically displayed. We have conducted preliminary testing that demonstrates that a Clinical Quality summary indicator can be reported as long as Care Coordination, Clinical Effectiveness, and Prevention domains are present even if the Patient Safety domain is not reportable because this domain did not impact QHP comparability. We believe that Patient Safety is important to measure and it is a CMS priority. We plan to further develop this domain of the QRS as more health-plan patient safety measures become available. We are also proposing that a Global Rating will be displayed only when all three summary indicator ratings are available. For the lower levels of the hierarchy, the half-scale rule would be applied, meaning that at a minimum, half of the components of the domain or composite must be present for the rating to be displayed. Thus, if a domain is composed of three composites, two would have to be present for it to be displayed or if a composite is composed of two measures at least one would have to be present for it to be displayed. Specifically, we solicit comment to inform future technical guidance regarding the full-scale and half-scale rules described as well as any additional ways to address data quality issues or potential low enrollment in QHPs in the initial years.

V. Future Considerations

We solicit comments to inform future technical guidance on priority areas for additional measure enhancements and development of the QRS. We intend to continually monitor the QRS and make necessary adjustments to ensure that the methodology and measures remain consistent with the intended goals and principles of the QRS. As advancements in health plan quality measurement and reporting are made, we will consider ways in which the QRS may evolve (such as the potential selection of measures that are reportable through disease registries or all-payer claims databases). In addition, we will consider potential factors for the retirement of measures.

As the Exchanges mature and enrollment in QHPs expands, we will consider reporting the QRS at more granular levels (that is, QHP metal levels as defined in section 1302(d)(1) of the Affordable Care Act). We will also consider the development of a quality rating system applicable to other Exchange offerings, such as stand-alone dental plans, catastrophic plans and health care saving accounts.

VI. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. However, it does make reference to an information collection activity. The aforementioned Enrollee Satisfaction Survey is currently seeking OMB approval via notice and comment periods separate from this proposed notice. The 60-day **Federal Register** notice published on June 28, 2013. Additionally, in future rulemaking, we will identify information collection requirements associated with the QRS and solicit public comment at that time.

Dated: November 6, 2013.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2013–27649 Filed 11–14–13; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request: NIH NCI Central Institutional Review Board (CIRB) Initiative (NCI)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 22, 2013, Vol. 78, P. 52204 and allowed 60-days for public comment. There were no public comments received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

FOR FURTHER INFORMATION: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: CAPT Michael Montello, Pharm. D., MBA, Cancer Therapy Evaluation Program, Operations and Informatics Branch, 9609 Medical Center Drive, Rockville, MD 20850 or call non-toll-free number 240–276–6080 or Email your request, including your address to: *mike.montello@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: NIH NCI Central Institutional Review Board (CIRB) Initiative (NCI), 0925–0625, Expiration Date 1/31/2014, Revision, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The National Cancer Institute (NCI) Central Institutional Review Board (CIRB) provides a centralized approach to human subject protection and provides a cost efficient approach avoiding duplication of effort at each institution. The CIRB provides the services of a fully constituted IRB and provides a comprehensive and efficient mechanism to meet regulatory requirements pertaining to human subject protections including: initial reviews, continuing reviews, review of amendments, and adverse events. The Initiative consists of three central IRBs: Adult CIRB—late phase emphasis, Adult CIRB—early phase emphasis, and Pediatric CIRB. CIRB membership includes oncology physicians, surgeons, nurses, patient advocates, ethicists, statisticians, pharmacists, attorneys and other health professionals. The benefits of the CIRB Initiative reaches research participants, investigators and research staff, Institutional Review Boards (IRB), and Institutions. Benefits include: study participants having dedicated review of NCI-sponsored trials for participant protections, access to more trials more quickly and access to trials for rare diseases, accrual to trials begin more rapidly, ease of opening trials, elimination of need to submit study materials to local IRBs, and elimination of the need for a full board review. The benefits to the National Clinical Trials Network and Experimental Therapy-Clinical Trials Network include a cost efficient approach that avoids duplication of efforts at each institution. A variety of information collection tools are needed to support NCI's CIRB activities which include: worksheets, forms and a survey that is provided to all customers contacting the CIRB helpdesk.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 2,199.

ESTIMATES OF ANNUAL BURDEN HOURS

Form name	Type of respondents	Number of respondents	Frequency of responses per respondent	Average burden per response (in hours)	Total annual burden hours
CIRB Customer Satisfaction Survey	Participants/Board Members.	1,500	1	10/60	250
Request for 30 Day Website Access Form	Participants	25	1	10/60	4
Authorization Agreement and Division of Responsibilities between the NCI CIRB and Signatory Institution.	Participants	340	1	30/60	170
NCI CIRB Signatory Enrollment Form	Participants	40	1	4	160
IRB Staff at Signatory Institution's IRB	Participants	25	1	10/60	4
Investigator at Signatory Institution	Participants	65	1	10/60	11
Research Staff at Signatory Institution	Participants	65	1	10/60	11

ESTIMATES OF ANNUAL BURDEN HOURS—Continued

Form name	Type of respondents	Number of respondents	Frequency of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Investigator at Affiliate Institution with an IRB	Participants	25	1	10/60	4
Research Staff at Affiliate Institution with an IRB	Participants	25	1	10/60	4
Investigator at Affiliate Institution without an IRB	Participants	25	1	10/60	4
Research Staff at Affiliate Institution without an IRB	Participants	25	1	10/60	4
Institutional Contact for Signatory Institution	Participants	65	1	10/60	11
IRB at Signatory Institution	Participants	25	1	10/60	4
Component Institution at Signatory Institution	Participants	65	1	10/60	11
IRB at Affiliate Institution	Participants	25	1	10/60	4
Affiliate Institution without an IRB	Participants	25	1	10/60	4
Facilitated Review Acceptance Form	Participants	300	1	10/60	50
Study Review Responsibility Transfer Form	Participants	80	1	10/60	13
Annual Signatory Institution Worksheet About Local Context.	Participants	120	1	20/60	40
Annual Principal Investigator Worksheet About Local Context.	Participants	120	1	20/60	40
Study-Specific Worksheet About Local Context	Participants	220	1	20/60	73
Study Closure or Transfer of Study Review Responsibility Form.	Participants	120	1	10/60	20
Potential Unanticipated Problem or Serious or Continuing Noncompliance Reporting Form.	Participants	120	1	15/60	30
Add or Remove Signatory and/or Component Institution Personnel.	Participants	120	1	10/60	20
Add or Remove Affiliate Institution Personnel	Participants	120	1	10/60	20
Add or Remove Component Institution	Participants	120	1	10/60	20
Add or Remove Affiliate Institution	Participants	120	1	10/60	20
One Time Study Roll Over Worksheet	Participants	120	1	10/60	20
Change of Signatory Institution PI Form	Participants	120	1	10/60	20
CIRB Board Member Biographical Sketch Form	Board Members	25	1	15/60	6.25
CIRB Board Member Contact Information Form	Board Members	25	1	10/60	4
CIRB Board Member W–9	Board Members	25	1	15/60	6
CIRB Board Member Non-Disclosure Agreement (NDA).	Board Members	25	1	10/60	4
CIRB Direct Deposit Form	Board Members	25	1	15/60	6
NCI Adult/Pediatric CIRB Application for Treatment Studies.	Participants	25	1	2	50
NCI Adult/Pediatric CIRB Application for Ancillary Studies.	Participants	10	1	2	20
NCI Adult/Pediatric CIRB Application for Continuing Review.	Participants	80	1	1	80
Summary of CIRB Application Revisions	Participants	20	1	30/60	10
Locally-Developed Material Submission Form	Participants	15	1	15/60	4
Application Request to Review Translated Documents.	Participants	15	1	15/60	4
Adult Initial Review of Cooperative Group Protocol	Board Members	15	1	4	60
Pediatric Initial Review of Cooperative Group Protocol.	Board Members	15	1	4	60
Adult Continuing Review of Cooperative Group Protocol.	Board Members	130	1	1	130
Pediatric Continuing Review of Cooperative Group Protocol.	Board Members	70	1	1	70
Adult Amendment of Cooperative Group Protocol	Board Members	10	1	2	20
Pediatric Amendment of Cooperative Group Protocol.	Board Members	10	1	2	20
Adult Cooperative Group Response to CIRB Review.	Participants	15	1	1	15
Pediatric Cooperative Group Response to CIRB Review.	Participants	10	1	1	10
Adult Pharmacist's Review of a Cooperative Group Study.	Board Members	10	1	2	20
Pediatric Pharmacist's Review of a Cooperative Group Study.	Board Members	20	1	2	40
CIRB Statistical Reviewer Form	Board Members	30	1	30/60	15
Determination of Unanticipated Problem (UP) and/or Serious or Continuing Noncompliance (SCN).	Board Members	40	1	10/60	7
Adult Expedited Amendment Review	Board Members	350	1	30/60	175
Ped Expedited Amendment Review	Board Members	150	1	30/60	75
Adult Expedited Continuing Review	Board Members	120	1	30/60	60
Ped Expedited Continuing Review	Board Members	70	1	30/60	35
Adult Expedited Study Closure	Board Members	20	1	20/60	7

ESTIMATES OF ANNUAL BURDEN HOURS—Continued

Form name	Type of respondents	Number of respondents	Frequency of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Ped Expedited Study Closure	Board Members	20	1	20/60	7
Adult Expedited Study Chair Response to Required Mod.	Board Members	350	1	15/60	88
Ped Expedited Study Chair Response to Required Mod.	Board Members	150	1	15/60	38
Reviewer Worksheet of Translated Documents	Board Members	15	1	15/60	4
Reviewer Advertisement Checklist	Board Members	10	1	20/60	3

Dated: November 7, 2013.

Vivian Horovitch-Kelley,

Program Analyst, National Institutes of Health.

[FR Doc. 2013–27556 Filed 11–18–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request: Cancer Trials Support Unit (CTSU) (NCI)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 30, 2013, Vol. 78, p. 53763 and allowed 60-days for public comment. There have been no public comments. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: Michael Montello, Cancer Therapy Evaluation Program, Division of Cancer Treatment and Diagnosis, 9609 Medical Center Drive, Rockville, MD 20850 or call non-toll-free number 240–276–6080 or Email your request, including your address to: *montellom@mail.nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Cancer Trials Support Unit (CTSU) (NCI), 0925–0624, Expiration Date 12/31/2013, REVISION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The Cancer Therapy Evaluation Program (CTEP) establishes and supports programs to facilitate the participation of qualified investigators on CTEP-supported studies, and to institute programs that minimize redundancy among grant and contract holders, thereby reducing overall cost of maintaining a robust treatment trials program. Currently guided by the efforts of the Clinical Trials Working Group (CTWG) and the Institute of Medicine (IOM) recommendations to revitalize the Cooperative Group program, CTEP has funded the Cancer Trials Support Unit (CTSU). The CTSU collects standardized forms to process site regulatory information, changes to membership, patient enrollment data, and routing information for case report forms. In addition, CTSU collects annual surveys of customer satisfaction for clinical site staff using the CTSU Help Desk, the CTSU Web site, and the Protocol and Information Office (PIO). An ongoing user satisfaction survey is in place for the Oncology Patient Enrollment Network (OPEN). User satisfaction surveys are compiled as part of the project quality assurance activities and are used to direct improvements to processes and technology. Additionally, there are three surveys that collect information about health professional's interests in clinical trial, potential issues with opening and accruing to a clinical trial and reasons for low accrual.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 25,205.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
CTSU IRB/Regulatory Approval Transmittal Form	Health Care Practitioner	9,000	12	2/60	3,600
CTSU IRB Certification Form	Health Care Practitioner	8,500	12	10/60	17,000
CTSU Acknowledgement	Health Care Practitioner	500	12	5/60	500
Withdrawal from Protocol Participation Form	Health Care Practitioner	50	12	5/60	50
Site Addition	Health Care Practitioner	25	12	5/60	25
CTSU Roster Update Form	Health Care Practitioner	50	12	4/60	40
CTSU Radiation Therapy Facilities Inventory Form.	Health Care Practitioner	20	12	30/60	120

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
CTSU IBCSG Drug Accountability Form	Health Care Practitioner	11	12	10/60	22
CTSU IBCSG Transfer of Investigational Agent Form.	Health Care Practitioner	3	12	20/60	12
Site Initiated Data Update Form	Health Care Practitioner	10	12	10/60	20
Data Clarification Form	Health Care Practitioner	341	12	20/60	1,364
RTOG 0834 CTSU Data Transmittal Form	Health Care Practitioner	60	12	10/60	120
MC0845(8233) CTSU Data Transmittal	Health Care Practitioner	50	12	10/60	100
CTSU Generic Data Transmittal Form	Health Care Practitioner	500	12	10/60	1,000
CTSU Patient Enrollment Transmittal Form	Health Care Practitioner	200	12	10/60	400
CTSU P2C Enrollment Transmittal Form	Health Care Practitioner	15	12	10/60	30
CTSU Transfer Form	Health Care Practitioner	20	12	10/60	40
CTSU System Account Request Form	Health Care Practitioner	20	12	20/60	80
CTSU Request for Clinical Brochure	Health Care Practitioner	75	12	10/60	150
CTSU Supply Request Form	Health Care Practitioner	75	12	10/60	150
CTSU Web Site Customer Satisfaction Survey	Health Care Practitioner	275	1	15/60	69
CTSU Helpdesk Customer Satisfaction Survey	Health Care Practitioner	325	1	15/60	81
CTSU OPEN Survey	Health Care Practitioner	60	1	15/60	15
PIO Customer Satisfaction Survey	Health Care Practitioner	100	1	5/60	8
Concept Clinical Trial Survey	Health Care Practitioner	500	1	5/60	42
Prospective Clinical Trial Survey	Health Care Practitioner	1,000	1	5/60	83
Low Accrual Clinical Trial Survey	Health Care Practitioner	1,000	1	5/60	83

Dated: November 7, 2013.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2013–27554 Filed 11–18–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: The Development of Modified T-cells for the Treatment of Multiple Myeloma

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209 and 37 CFR Part 404, that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant to Thirsty Brook Bioscience, Inc., of an exclusive evaluation option license to practice the inventions embodied in the following US Patent Applications (and all continuing applications and foreign counterparts): Serial No. 61/622,6008 entitled, ''Chimeric Antigen Receptors Targeting B-cell Maturation Antigen'' [HHS Ref. E–040–2012/0–US–01]. The patent rights in these inventions have been assigned to the Government of the United States of America.

The prospective exclusive evaluation option license territory may be worldwide, and the field of use may be limited to:

''The research, development, and manufacture of chimeric antigen receptor (CAR)-expressing human T-cells directed against B-cell Maturation Antigen (BCMA) for the treatment of multiple myeloma.''

Upon the expiration or termination of the exclusive evaluation option license, Thirsty Brook Bioscience, Inc. will have the exclusive right to execute an exclusive commercialization license which will supersede and replace the exclusive evaluation option license with no greater field of use and territory than granted in the exclusive evaluation option license.

DATES: Only written comments or applications for a license (or both) which are received by the NIH Office of Technology Transfer on or before December 4, 2013 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive evaluation option license should be directed to: Patrick McCue, Ph.D., Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5560; Facsimile: (301) 402–0220; Email: *mccuepat@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The invention concerns a series of CARs that specifically target BCMA (a.k.a. CD269), a protein that is highly expressed on the surface of multiple myeloma cells. The patent rights include claims to vectors incorporating the CARs, as well as methods of destroying multiple myeloma cells using T-cells engineered to express a CAR.

The prospective exclusive evaluation option license is being considered under the small business initiative launched on 1 October 2011, and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive evaluation option license, and a subsequent exclusive commercialization license, may be granted unless the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404 within fifteen (15) days from the date of this published notice.

Complete applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive evaluation option license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: November 13, 2013.

Richard U. Rodriguez,

Director, Division of Technology Development & Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2013–27601 Filed 11–18–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, October 09, 2013, 08:00 a.m. to October 09, 2013, 06:00 p.m., Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814, which was published in the Federal Register on September 17, 2013, 78 FR 57169.

The meeting will be held at the National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 on December 19, 2013, starting at 12:00 p.m. and ending at 05:00 p.m. The meeting is closed to the public.

Dated: November 13, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–27595 Filed 11–18–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Heart, Lung, and Blood Institute Special Emphasis Panel, October 10, 2013, 08:00 a.m. to October 10, 2013, 12:00 p.m., Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD, 20814 which was published in the **Federal Register** on September 20, 2013, 78 FR 57866.

The notice is amended to change the date of the meeting from October 10, 2013 to December 17, 2013. The meeting is closed to the public.

Dated: November 13, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–27590 Filed 11–18–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR11–45: International Research in Infectious Diseases including AIDS (IRIDA).

Date: November 25, 2013.

Time: 9:30 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Soheyla Saadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *saadisoh@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR11–45: International Research in Infectious Diseases including AIDS (IRIDA).

Date: December 6, 2013.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Soheyla Saadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892,301–435–0903, *saadisoh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Awards for Research on Imaging and Biomarkers for Early Cancer, Detection (R01).

Date: December 10, 2013.

Time: 11:45 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mehrdad Mohseni, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7854, Bethesda, MD 20892, 301–435–0484, *mohsenim@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Science Approaches to Preventing HIV/AIDS Study Section.

Date: December 12–13, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: Jose H Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topic: Hematology and Vascular Pathobiology.

Date: December 12–13, 2013.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9497, *zouai@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR11–45: International Research in Infectious Diseases including AIDS, (IRIDA).

Date: December 16, 2013.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Soheyla Saadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *saadisoh@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 13, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–27600 Filed 11–18–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Research Career Development Award (K23).

Date: December 12, 2013.

Time: 4:00 p.m. to 4:45 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924 (Telephone Conference Call).

Contact Person: Keith A. Mintzer, Ph.D., Scientific Review Officer, Office of Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, 301–594–7947, *mintzerk@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Clinical Trial of CVD in People with HIV.

Date: December 13, 2013.

Time: 10:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924 (Telephone Conference Call).

Contact Person: Keary A. Cope, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7190, Bethesda, MD 20892–7924, 301–435–2222, *copeka@mail.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, NHLBI T32 Institutional Training Grants.

Date: December 20, 2013.

Time: 9:30 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892–7924 (Telephone Conference Call).

Contact Person: Stephanie L Constant, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892–7924, 301–443–8784, *constantsl@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS).

Dated: November 13, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–27593 Filed 11–18–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; PETAL Clinical Centers Review.

Date: December 9–10, 2013.

Time: 12:30 p.m. to 10:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown University Hotel and Conference Center, 3800 Reservoir Rd. NW., Washington, DC 20057.

Contact Person: William J Johnson, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924, 301–435–0317, *johnsonwj@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Ancillary Studies in Clinical Trials.

Date: December 10, 2013.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Kristen Page, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892, 301–435–0725, *kristen.page@nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; PETAL Clinical Coordinating Center Review.

Date: December 10, 2013.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown University Hotel and Conference Center, 3800 Reservoir Rd. NW., Washington, DC 20057.

Contact Person: William J Johnson, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924, 301–435–0317, *johnsonwj@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: November 13, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–27591 Filed 11–18–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; NeuroAIDS Program Project.

Date: December 9, 2013.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Mary Clare Walker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892, (301) 435–1165, *walkermc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Transgenerational Inheritance, Spermatogenesis and Chemotherapy.

Date: December 12, 2013.

Time: 2:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Reed A Graves, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 402–6297, *gravesr@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 13, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–27594 Filed 11–18–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Developmental Brain Disorders Study Section, October 24, 2013, 08:00 a.m. to October 25, 2013, 05:00 p.m., Melrose Hotel, 2430 Pennsylvania Avenue NW., Washington, DC, 20037 which was published in the **Federal Register** on October 1, 2013, 78 FR 60298.

The meeting will be on November 26, 2013 from 11:00 a.m. to 3:00 p.m. at the National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. The meeting is closed to the public.

Dated: November 13, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–27596 Filed 11–18–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Cancellation of Meeting

Notice is hereby given of the cancellation of the National Institute on Aging Special Emphasis Panel, December 18, 2013, 2:00 p.m. to December 18, 2013, 3:15 p.m., National Institute of Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, which was published in the **Federal Register** on November 8, 2013, 67177 FR 217.

The meeting was entitled Member Conflict.

Dated: November 13, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–27598 Filed 11–18–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Clinical Trials Review.

Date: December 11, 2013.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924 (Telephone Conference Call).

Contact Person: Chang Sook Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–435–0287, *carolko@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS).

Dated: November 13, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–27592 Filed 11–18–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the President's Cancer Panel.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: President's Cancer Panel.

Date: March 3, 2014.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: Cancer Communication in the Digital Era: Opportunities and Challenges.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C-Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Abby B. Sandler, Ph.D., Executive Secretary, President's Cancer Panel, Special Assistant to the Director, NCI Center for Cancer Research, 9000 Rockville Pike, Building 31, Room B2B37, MSC 2590, Bethesda, MD 20892–8349, (301) 451–9399, *sandlera@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/pcp/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 13, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–27597 Filed 11–18–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of General Medical Sciences Special Emphasis Panel, November 21, 2013, 12:00 p.m. to November 21, 2013, 5:00 p.m., National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An. 18, Bethesda, MD 20892 which was published in the **Federal Register** on November 7, 2013, 78 FR 66947.

The meeting will start on November 21, 2013 at 11:00 a.m. and end November 21, 2013 at 2:00 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: November 13, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–27599 Filed 11–18–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, October 03, 2013, 12:00 p.m. to October 03, 2013, 03:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, which was published in the Federal Register on September 05, 2013, 78 FR 54665.

The meeting will be held on November 25, 2013 from 04:30 p.m. to 07:30 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: November 13, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–27589 Filed 11–18–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2013–0075]

Executive Order 13650 Improving Chemical Facility Safety and Security Listening Sessions

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Notice of public listening sessions.

SUMMARY: The Department of Homeland Security (DHS), in coordination with the Department of Labor (DOL) and the Environmental Protection Agency (EPA), is announcing a series of public listening sessions and webinars to solicit comments and suggestions from stakeholders on issues pertaining to Improving Chemical Facility Safety and Security (Executive Order [EO] 13650).

DATES: The public listening sessions will be held from 8:00 a.m. to 4:30 p.m. on the following dates: November 19, 2013, and December 11, 2013. Online webinars will be hosted November 25, 2013, and December 16, 2013. Additional listening sessions may be scheduled in December 2013 and January 2014. We will notify the public of the date(s), time(s), location(s), and other details of any such session(s) as soon as we have information available. Previous public listening sessions were held November 5, 2013 and November 15, 2013.

ADDRESSES: The public listening sessions will be held at the following locations:

- November 19, 2013, Illinois Emergency Management Agency, 2200 Dirksen Parkway, Springfield, IL 62703; and
- December 11, 2013, Valencia Criminal Justice Institute, 8600 Valencia College Lane, Auditorium-150, Orlando, FL 32825.

Note: Previous public listening sessions were held:

- November 5, 2013, College of the Mainland, 1200 Amburn Road, Texas City, TX 77591, Learning Resource Center, Room 131; and
- November 15, 2013, GSA's ROB Auditorium, 301 7th Street SW., (7th and D Streets), Washington, DC 20407.

Submit written comments to the DHS Docket Office, Docket No. DHS–2013–0075, Technical Data Center, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Comments will also be accepted by email at: *eo.chemical@hq.dhs.gov.* All comments should be identified with Docket No. DHS–2013–0075.

Registration to Attend and/or to Participate: If you wish to attend any public listening session and/or a Webinar and/or make an oral comment/presentation at both the in-person and Webinar listening sessions, you must register at *www.GovEvents.com.* When registering, you must indicate that you wish to make a comment/presentation and indicate the related EO topic. Registration for those wishing to make comments will be on a first come, first served basis provided a cross-section of stakeholders are represented by the speakers. Comments are requested not to exceed five minutes. Actual schedule for the presentations will depend on the number of requests. There is no fee to register for the public listening sessions or Webinars. Same-day registration at a listening session is permitted but only on a space-available basis, beginning at 8:00 a.m. We will do our best to accommodate all persons who wish to make a comment/presentation at a listening session or webinar. The EO Working Group encourages persons and groups having similar interests to consolidate their information for presentation through a single representative. Each participant will be notified prior to the listening session or webinar of the approximate time that the participant's comment/presentation is scheduled to begin. Registration for the in-person listening sessions and webinars can be found at *www.GovEvents.com.*

FOR FURTHER INFORMATION CONTACT: For further information please email: *eo.chemical@hq.dhs.gov.* Individuals with access and functional needs wishing to attend the sessions and/or webinar and requiring accommodations should contact Kathryn Willcutts at *Kathryn.Willcutts@hq.dhs.gov* as soon as possible.

SUPPLEMENTARY INFORMATION:

I. Background

On August 1, 2013, President Obama issued EO 13650 to improve chemical facility safety and security. The Working Group charged with implementing the EO is co-chaired by DHS, DOL, and EPA, and includes participation from the Departments of Justice, Agriculture, and Transportation.

Obtaining stakeholder input is critical to the success of the EO. To that end, the EO Working Group is scheduling public listening sessions around the country, as well as several Webinars. Attendees will have an opportunity to provide input EO related on topics such as: Improving operational coordination with Federal, state, tribal, and local partners; enhanced information

collection and sharing; modernizing regulations, guidance, and policies; and identifying best practices in chemical facility safety and security. In particular, the EO Working Group is interested in hearing from the following stakeholders: Chemical producers, chemical storage companies, agricultural supply companies, state and local regulators, chemical critical infrastructure owners and operators, first responders, labor organizations representing affected workers, environmental and community groups, and consensus standards organizations. Input from these public listening sessions will be used to inform the EO Working Groups' efforts to improve chemical regulation and better protect the nation. Basic information on the EO can be found at: *http://www.dhs.gov/topic/chemical-security*.

II. Scope of Public Listening Sessions

The Working Group is interested in obtaining information from the public on key issues impacting the EO. In particular, the EO Working Group seeks comments on the following:

- Improving operational coordination with state, tribal, and local partners;
- Enhanced information collection and sharing;
- Modernizing regulations, guidance, and policies; and
- Identifying best practices in chemical facility safety and security.

III. Request for Comments

Regardless of attendance at the public listening sessions and Webinars, interested persons may submit comments to the DHS Docket Office, Docket No. DHS–2013–0075, Technical Data Center, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Comments will also be accepted by email at: *eo.chemical@hq.dhs.gov* or through the Federal eRulemaking Portal at *http://www.regulations.gov*.

IV. Notes

Participants that do speak will be asked to provide their name, title, company and stakeholder segment (i.e. chemical producers, chemical storage companies, agricultural supply companies, state and local regulators, chemical critical infrastructure owners and operators, first responders, labor organizations representing affected workers, environmental and community groups, and consensus standards organizations). Notes from the listening sessions will be posted at *http://www.regulations.gov*. The public listening sessions may also be recorded to support the note taking effort.

Dated: November 13, 2013.

Caitlin Durkovich,

Assistant Secretary, Office of Infrastructure Protection.

[FR Doc. 2013–27681 Filed 11–18–13; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Post-Summary Corrections to Entry Summaries Filed in ACE Pursuant to the ESAR IV Test: Modifications and Clarifications

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice announces modifications and clarifications pertaining to U.S. Customs and Border Protection's (CBP's) Entry Summary, Accounts and Revenue (ESAR IV) test program concerning the processing of post-summary corrections (PSCs) to entry summaries that are filed in the Automated Commercial Environment (ACE). The modifications to the ESAR IV test program will allow filers greater access to data filed in ACE as it relates to the original entry and any subsequent PSC, limit certain additional data elements from being changed via PSC, and preclude a PSC on any entry that has been protested or where merchandise covered by the original entry has been conditionally released and its right to admission has not been determined. This notice also clarifies bond obligations when a PSC has been filed, CBP's authority to reject a PSC, and the meaning of certain terms as they relate to the ESAR IV test.

DATES: The ESAR IV test modifications will go into effect December 19, 2013, and will continue until concluded by way of announcement in the **Federal Register**. Comments concerning this notice and any aspect of the test may be submitted at any time during the test period to the address set forth below.

ADDRESSES: Comments concerning this notice should be submitted via email to Monica Crockett at *ESARinfoinbox@dhs.gov*. Please indicate ''ESAR IV (Post-Summary Corrections Processing)'' in the subject line of your email.

FOR FURTHER INFORMATION CONTACT: For policy-related questions, contact Virginia McPherson via email at *otentrysummary@cbp.dhs.gov*. For technical questions related to ABI transmissions, contact your assigned client representative. Interested parties without an assigned client representative should direct their questions to the Client Representative Branch at (703) 650–3500.

SUPPLEMENTARY INFORMATION:

Background

I. Automated Commercial Environment (ACE) Test Programs

Automated Commercial Environment (ACE) prototypes are tested in accordance with § 101.9(b) of title 19 of the Code of Federal Regulations (19 CFR 101.9(b)), which provides for the testing of National Customs Automation Program (NCAP) components. A chronological listing of **Federal Register** publications detailing ACE test developments is set forth below in section V of this document. The procedures and criteria related to participation in the prior ACE tests remain in effect unless otherwise explicitly changed by this or subsequent notices published in the **Federal Register**.

II. ACE Entry Summary, Accounts and Revenue (ESAR IV) Test Program

In a notice published in the **Federal Register** (76 FR 37136) on June 24, 2011, U.S. Customs and Border Protection (CBP) announced a plan to conduct a NCAP test concerning new ACE ESAR IV capabilities (''ESAR IV test''). The ESAR IV test permitted importers to file post-summary corrections (PSCs) of certain ACE entry summaries using the Automated Broker Interface (ABI). Importers and their brokers were also allowed to use ABI to file PSCs to those pre-liquidation ACE entry summaries that were accepted by CBP, fully paid, and under CBP control.

III. Modifications to the ESAR IV Test

A. Access by Filers to Entry and PSC Data

Under the terms of the original ESAR IV test, as set forth in Subsection II.H of that document (76 FR 37138), the full content of the original entry summary was to be provided only to the filer of that entry summary. A subsequently filed PSC was deemed to fully replace the original entry summary, and full information with respect to the PSC was only available to the filer of the PSC and the filer of the original entry summary did not have access to the new filing. Similarly, if a second PSC was filed, it fully replaced the previously filed PSC and full information was accessible only to the filer of the second PSC. The filer of the original entry summary or the filer of the previously filed PSC were notified that a new replacement entry

summary had been filed by a PSC, but did not have access to the new filing.

CBP received considerable feedback from the trade community and test participants regarding the opportunity for increased access to information in PSCs. In response to the test participants' requests for greater access, and after due consideration, CBP has determined it will modify the ESAR IV test to allow the original entry summary filer, and any subsequent PSC filer, full access to all entry summary data contained in a subsequent PSC. Therefore, by running a report or query in ACE, any filer can see the complete entry summary data as modified by a PSC.

Under the terms and conditions of the modification announced in this notice, when a PSC is filed, the filer of the original entry summary will be notified that the entry summary has been fully replaced by a PSC and the original filer will have full access to the new filing. Similarly, if a subsequent PSC is filed, it fully replaces the previously filed PSC, and the filer of the first PSC will be notified that a new replacement entry summary has been filed and will have full access to the new filing. All of the information in the latest version of the entry summary and all subsequent PSCs will be accessible to all of the filers.

By participating under the terms and conditions of this test, importers and filers acknowledge that by filing a PSC they are making any commercial and confidential business information contained within the PSC available to all the parties described in this test, *i.e.* the filer of the original entry summary and any filers of a PSC correcting that entry summary. An importer should not file a PSC under the terms and conditions of this test if the importer does not want the original entry summary filer or PSC filer to have full access to all information contained within a subsequent PSC that was filed by a different filer.

It is noted that the recordkeeping obligations set forth in 76 FR 37138 remain unchanged (*i.e.,* entry filers and PSC filers only have recordkeeping responsibilities for their own submissions and do not incur recordkeeping obligations related to the submissions of others).

B. Data Elements That Cannot Be Changed Via PSC

The ESAR IV test notice, in Subsection II.E of that document (76 FR 37138), listed data elements that cannot be changed via PSC. This notice announces the following three additional data elements that cannot be changed via PSC:

- Date of Entry
- Bond
- Surety Code

C. Criteria and Rules for Filing a PSC

The ESAR IV test notice, in Subsection II.D of that document (76 FR 37137), listed criteria and rules for filing a PSC. This notice announces two new criteria and one modification to an existing criterion. The new criteria are as follows:

- A PSC cannot be made on entries that have been protested; and
- A PSC cannot be made when any merchandise covered by the original entry has been conditionally released and its right to admission has not been determined.

The modified criterion reflects that where a PSC results in a formal (type 01) entry being changed/corrected to indicate it is an Antidumping/Countervailing (type 03) entry, or if a PSC for a change/correction to a type 03 entry results in additional AD/CVD duties due, the importer of record must deposit the associated AD/CVD duties (or bond, if allowed) at the same time the PSC is filed and failure to file the deposit of the duties (or bond, if allowed) will result in rejection of the PSC and may result in liquidated damages. Such failure may also subject the importer to penalties under 19 U.S.C. 1592, or the broker to penalties under 19 U.S.C. 1641, as the facts and circumstances warrant. This is a change from the terms of the original ESAR IV test, where a failure to file the deposit of duties did not result in a rejection of the PSC.

IV. Clarifications to the ESAR IV Test Program

A. Bonding and PSC Filing

The ESAR IV test program did not address the subject of bonds and bonding as affected by a PSC. To provide clarity in this area, and affirm that for purposes of the ESAR IV test program the same bond and surety remain on an entry for which a PSC is filed, this notice announces the following ESAR IV bonding guidelines:

- If, prior to a PSC filing, a bond is filed pursuant to 19 CFR 142.4(b), or 19 CFR 141.20 (as authorized by 19 U.S.C. 1485(d)), that bond will continue to be obligated for the entry. All obligations vesting under the original entry, prior to the filing of a PSC, remain vested and are not obviated by a subsequent PSC filing.
- If a PSC is filed and accepted by CBP, the bond obligated at the time of entry, as well as any subsequent replacement bonds or superseding bonds, remain obligated for the original entry and the entry summary against which the PSC was filed.
- New bond data will not be accepted through a PSC.

B. Rejection of a PSC

While not explicitly stated in the ESAR IV test notice published in the **Federal Register** (76 FR 37136) on June 24, 2011, this notice clarifies that CBP retains the authority to reject any PSC that may be found to be incomplete or not in compliance with the requirements described in that test. A PSC which has been rejected by the system back to the filer may be re-transmitted within two (2) business days of the rejection. If there is no timely re-transmission, CBP will set the previously accepted entry for immediate liquidation, unless the liquidation of such previously accepted entry has been suspended pursuant to statute or court order.

C. Deemed Liquidation

Pursuant to 19 U.S.C. 1504(a), consumption entries are ''deemed liquidated'' at a rate of duty, value, quantity and amount of duties asserted by the importer of record. For purposes of the ESAR IV test, CBP interprets the statutory phrase ''deemed liquidation'' to mean rate of duty, value, quantity and amount of duties asserted at the time of acceptance of the PSC.

D. Definitions

This notice announces the following definitions for purposes of the ESAR IV test program:

- *Complete or Full Replacement.* The term ''complete or full replacement'' means the replacement of all data elements in an original entry summary filed in ACE with new data elements found in a superseding PSC. A complete or full replacement does not mean that the replaced data is null and void. Any obligations that vested under the original entry or entry summary remain valid. Obligations that vest subsequent to the replacement are attributable to the PSC. For example, when an original entry summary is filed outside the 15-calendar day time period for filing entry and liquidated damages are incurred, the filing of a PSC on that entry summary is deemed to ''replace'' the entry summary but does not obviate the liquidated damages that were assessed properly against the original filing.
- *Under U.S. Customs and Border Protection (CBP) Review.* The term ''under U.S. Customs and Border Protection (CBP) review'' means the period of time when CBP is reviewing the data elements and supporting

documents of either an original entry summary or PSC prior to CBP's disposition of the original entry summary or PSC.

V. Development of ACE Prototypes

A chronological listing of **Federal Register** publications detailing ACE test developments is set forth below.

- ACE Portal Accounts and Subsequent Revision Notices: 67 FR 21800 (May 1, 2002); 70 FR 5199 (February 1, 2005); 69 FR 5360 and 69 FR 5362 (February 4, 2004); 69 FR 54302 (September 8, 2004).
- ACE System of Records Notice: 71 FR 3109 (January 19, 2006).
- Terms/Conditions for Access to the ACE Portal and Subsequent Revisions: 72 FR 27632 (May 16, 2007); 73 FR 38464 (July 7, 2008).
- ACE Non-Portal Accounts and Related Notice: 70 FR 61466 (October 24, 2005); 71 FR 15756 (March 29, 2006).
- ACE Entry Summary, Accounts and Revenue (ESAR I) Capabilities: 72 FR 59105 (October 18, 2007).
- ACE Entry, Summary, Accounts and Revenue (ESAR II) Capabilities: 73 FR 50337 (August 26, 2008); 74 FR 9826 (March 6, 2009).
- ACE Entry, Summary, Accounts and Revenue (ESAR III) Capabilities: 74 FR 69129 (December 30, 2009).
- ACE Entry, Summary, Accounts and Revenue (ESAR IV) Capabilities: 76 FR 37136 (June 24, 2011).
- NCAP Test Concerning the Document Imaging System: 77 FR 20835 (April 6, 2012).
- Modification of NCAP Test Concerning ACE Cargo Release (formerly known as Simplified Entry): 78 FR 66039 (November 4, 2013)

Dated: November 14, 2013.

Richard F. DiNucci,

Acting Assistant Commissioner, Office of International Trade.

[FR Doc. 2013–27651 Filed 11–18–13; 8:45 am]

BILLING CODE 9111–14–P; 9111–15–P; 9111–16–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–ES–2013–N191; FXES111309F0000–134–FF09E22000]

Endangered and Threatened Wildlife and Plants; Initiation of a 5-Year Review of the Vicuña in Argentina, Bolivia, Chile, Ecuador, and Peru

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of review; request for information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are initiating a 5-year review under the Endangered Species Act of 1973, as amended (Act), of the vicuña. A 5-year review is based on the best scientific and commercial data available at the time of the review. We are requesting submission of information that has become available since the last review of the species.

DATES: To ensure consideration, please send your written information by January 21, 2014. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: Please submit your information in writing to the Branch of Foreign Species, Endangered Species Program, by any one of the following methods:

- *Electronically:* Email *es_foreignspecies@fws.gov.*
- *U.S. mail:* U.S. Fish and Wildlife Service; 4401 North Fairfax Drive, Room 420, Arlington, VA 22203.

For more about submitting information, see ''What Information Do We Consider in Our Review?'' and ''Request for Information'' under **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Janine Van Norman, Chief, Branch of Foreign Species, Endangered Species Program, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 420, Arlington, VA 22203; telephone 703–358–2171; facsimile 703–358–1735. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Why do we conduct 5-year reviews?

Under the Act (16 U.S.C. 1531 *et seq.*), we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List). Wildlife and plants on the List can be found at *http://ecos.fws.gov/tess_public/pub/listedAnimals.jsp* and *http://ecos.fws.gov/tess_public/pub/listedPlants.jsp,* respectively. Section 4(c)(2)(A) of the Act requires us to review each listed species' status at least once every 5 years. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species under active review. For additional information about 5-year reviews, refer to our fact sheet at *http://www.fws.gov/endangered/what-we-do/recovery-overview.html.*

What information do we consider in our review?

In conducting a 5-year review, we consider the best scientific and commercial data that have become available since the listing determination or most recent status review, such as:

(A) Species biology, including but not limited to population trends, distribution, abundance, demographics, and genetics;

(B) Habitat conditions, including but not limited to amount, distribution, and suitability;

(C) Conservation measures that have been implemented that benefit the species;

(D) Threat status and trends in relation to the five listing factors (as defined in Section 4(a)(1) of the Act); and

(E) Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

New information will be considered in the 5-year review and ongoing recovery programs for the species.

Species Under Review

This notice announces our review of the vicuña (*Vicugna vicugna*). In the United States, the vicuña is subject to two regulatory measures: The Act and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). We originally listed the vicuña as endangered under the Act on June 2, 1970 (35 FR 8491). Among other things, that listing prohibited certain U.S. interstate and foreign commerce in vicuña products. The vicuña was included in Appendix I of CITES on July 1, 1975 (the date of entry into force of CITES), which thereby generally prohibited primarily commercial international trade in vicuña products. Certain populations of vicuñas in Chile and Peru were transferred to CITES Appendix II at the sixth meeting of the Conference of the Parties to CITES (CoP6) in 1987. The remaining vicuña populations of Peru were transferred to Appendix II in 1994 at the ninth meeting of the Conference of the Parties (CoP9), while certain populations in Argentina and Bolivia were transferred to Appendix II in 1997 at the tenth meeting of the Conference of the Parties (CoP10). These transfers to CITES Appendix II reflected an improved conservation status for specified vicuña populations, and allowed the resumption of commercial, international trade—under carefully controlled conditions—of vicuña fiber and products manufactured from vicuña fiber. This international trade, however, was still excluded from the United States because of the species' listing as endangered under the Act, which is a stricter domestic measure than CITES. The United States supported the above transfers of the specified vicuña

populations to Appendix II, based on information contained in the supporting statements for the various CITES amendment proposals.

On October 5, 1995, we received a petition from the President of the International Vicuña Consortium, an association of companies in the fiber industry, requesting that the vicuña be removed from the U.S. list of endangered and threatened wildlife, or reclassified with a special rule that would allow for commercial trade that would benefit the conservation of the species. The petitioners cited, among other things, improved management of vicuña populations and improved enforcement and trade controls. Our 90-day finding on whether the petition presented substantial information and our 12-month finding on whether the petitioned action was warranted were subsumed within a proposed rule, which was published in the **Federal Register** on September 8, 1999 (64 FR 48743).

In a final rule published on May 30, 2002 (67 FR 37695), we reclassified the populations of Argentina, Bolivia, Chile, and Peru as threatened under the Act. We also established a special rule (under Section 4(d) of the Act) allowing the importation into the United States of legal fiber and legal products produced with fiber from vicuña populations listed as threatened under the Act and in Appendix II of CITES, if certain conditions were satisfied by the exporting or re-exporting country. We retained as endangered under the Act the recently introduced vicuña population of Ecuador, treated as a distinct population segment under the Act in accordance with the Service's Policy on Distinct Vertebrate Population Segments (61 FR 4722; February 7, 1996).

Effective June 12, 2013, the CITES Parties adopted a proposal that transferred the whole vicuña population of Ecuador from Appendix I to Appendix II. According to the CITES annotation, the revised Appendix II listing refers only to specific populations of Argentina (the populations of the Provinces of Jujuy and Catamarca and the semi-captive populations of the Provinces of Jujuy, Salta, Catamarca, La Rioja, and San Juan), Chile (population of the Primera Región), Ecuador (the whole population), Peru (the whole population), and the Plurinational State of Bolivia (the whole population); all other populations are included in Appendix I.

Request for Information

To ensure that a 5-year review is complete and based on the best available scientific and commercial information, we request new information from all sources. See ''What Information Do We Consider In Our Review?'' for specific criteria. If you submit information, please support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

Public Availability of Submissions

Before including your address, phone number, email address, or other personal identifying information in your submission, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. Although you can request that personal information be withheld from public review, we cannot guarantee that we will be able to do so. Materials received will be available for public inspection, by appointment, during normal business hours at the office where the comments are submitted.

Authority

This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 4, 2013.

Gary Frazer,

Assistant Director for Ecological Services, U.S. Fish and Wildlife Service.

[FR Doc. 2013–27584 Filed 11–18–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–13730; PPWOCRADI0, PCU00RP14.R50000]

Landmarks Committee of the National Park System Advisory Board Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix 1–16, and Part 65 of title 36 of the Code of Federal Regulations, that a meeting of the Landmarks Committee of the National Park System Advisory Board will be held beginning at 9:00 a.m. on December 17, 2013, in Washington, DC. The meeting will continue beginning at 9:00 a.m. on December 18, 2013.

DATES: The meeting will be held on December 17, 2013, from 9:00 a.m. to 4:30 p.m.; and December 18 from 9:00 a.m. to 4:30 p.m., Eastern Standard Time.

Location: The Charles Sumner School Museum and Archives, 3rd Floor, The Richard L. Hurlbut Memorial Hall, 1201 17th Street NW., Washington, DC 20036.

Agenda: The National Park System Advisory Board and its Landmarks Committee may consider the following nominations:

California

California Powder Works Bridge, Santa Cruz County, CA

Florida

The Research Studio, Maitland, FL

Indiana

Duck Creek Aqueduct, Metamora, Franklin County, IN

Louisiana

The St. Charles Line, New Orleans, LA

Maine

Admiral Robert E. Peary Summer Home, Harpswell, ME
Perkins Homestead, New Castle, ME

Massachusetts

Lydia Pinkham House, Lynn, MA

Michigan

GM Tech Center, Warren, MI

New Jersey

Baltusrol Golf Club, Springfield, NJ

Vermont

Brown Bridge, Rutland County, VT
Proposed Amendments to Existing Designations:

Pennsylvania

Andrew Wyeth Studio and Kuerner Farm, Chadds Ford Township, PA (updated documentation, boundary expansion, and name change)

Montana and North Dakota

Fort Union Trading Post, Williams County, ND, and Roosevelt County, MT (updated documentation)

Ohio

Colonel Charles Young House, Greene County, OH (updated documentation)
Proposed Withdrawal of Designations:

Virginia

Eight-Foot High Speed Tunnel, Hampton (City), VA
Full Scale 30- x 60-Foot Tunnel, Hampton (City), VA

FOR FURTHER INFORMATION CONTACT: Patricia Henry, Historian, National

Historic Landmarks Program, National Park Service, 1201 Eye Street NW., 8th Floor, Washington, DC 20005; telephone (202) 354–2216 or email: *Patty_Henry@nps.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the meeting of the Landmarks Committee of the National Park System Advisory Board is to evaluate nominations of historic properties in order to advise the National Park System Advisory Board of the qualifications of each property being proposed for National Historic Landmark (NHL) designation, and to make recommendations regarding the possible designation of those properties as National Historic Landmarks to the National Park System Advisory Board at a subsequent meeting at a place and time to be determined. The Committee also makes recommendations to the National Park System Advisory Board regarding amendments to existing designations and proposals for withdrawal of designation. The members of the Landmarks Committee are:

Ms. Belinda Faustinos, Acting Chair

Dr. James M. Allan

Dr. Cary Carson

Mr. Luis Hoyos, AIA

Dr. Barbara J. Mills

Dr. William J. Murtagh

Dr. William D. Seale

Dr. Michael E. Stevens

The meeting will be open to the public. Pursuant to 36 CFR Part 65, any member of the public may file, for consideration by the Landmarks Committee of the National Park System Advisory Board, written comments concerning the National Historic Landmarks nominations, amendments to existing designations, or proposals for withdrawal of designation.

Comments should be submitted to J. Paul Loether, Chief, National Register of Historic Places and National Historic Landmarks Program, National Park Service, 1201 Eye Street NW., 8th Floor, Washington, DC 20005, email: *Paul_Loether@nps.gov.*

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: November 13, 2013.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2013–27565 Filed 11–18–13; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–542, Investigation No. 332–544, Investigation No. 332–545, Investigation No. 332–546]

AGOA: Trade and Investment Performance Overview; AGOA: Economic Effects of Providing Duty-Free Treatment for Imports, U.S. AGOA Rules of Origin: Possible Changes To Promote Regional Integration and Increase Exports to the United States; EU-South Africa FTA: Impact on U.S. Exports to South Africa

AGENCY: United States International Trade Commission.

ACTION: Institution of investigations, scheduling of public hearing, and opportunity to provide written submissions.

SUMMARY: Following receipt of a request dated September 30, 2013 (received October 17, 2013) from the United States Trade Representative (USTR) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the U.S. International Trade Commission (Commission) instituted four investigations for the purpose of providing the requested information: investigation No. 332–542, *AGOA: Trade and Investment Performance Overview;* investigation No. 332–544, *AGOA: Economic Effects of Providing Duty-Free Treatment for Imports;* investigation No. 332–545, *U.S. AGOA Rules of Origin: Possible Changes to Promote Regional Integration and Increase Exports to the United States;* and investigation No. 332–546, *EU-South Africa FTA: Impact on U.S. Exports to South Africa.*

DATES:

December 13, 2013: Deadline for filing requests to appear at the public hearing.

December 17, 2013: Deadline for filing pre-hearing briefs and statements.

January 14, 2014: Public hearing.

January 21, 2014: Deadline for filing post-hearing briefs and statements.

January 21, 2014: Deadline for filing all other written submissions.

April 17, 2014: Transmittal to USTR of Commission reports on investigation Nos. 332–542, 332–544, and 332–546.

April 30, 2014: Transmittal to USTR of report on Commission investigation No. 332–545.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov/edis3-internal/app.*

FOR FURTHER INFORMATION CONTACT: For information with respect to specific investigations:

(1) Investigation No. 332–542, Project Leader Joanna Bonarriva (202–205–3312 or *Joanna.Bonarriva@usitc.gov*) or Deputy Project Leader Joanne Guth (202–205–3264 or *Joanne.Guth@usitc.gov*);

(2) Investigation No. 332–544, Project Leader Kathryn Lundquist (202–205–2563 or *Kathryn.Lundquist@usitc.gov*) or Deputy Project Leader Andrew David (202–205–3368 or *Andrew.David@usitc.gov*);

(3) Investigation No. 332–545, Project Leader Deborah McNay (202–205–3425 or *Deborah.McNay@usitc.gov*) or Deputy Project Leader Heidi Colby-Oizumi (202–205–3391 or *Heidi.Colby@usitc.gov*);

(4) Investigation No. 332–546, Project Leader David Riker (202–205–2201 or *David.Riker@usitc.gov*) or Deputy Project Leader Kyle Johnson (202–205–3229 or *Kyle.Johnson@usitc.gov*).

For information on the legal aspect of each of these investigations, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: As requested, the Commission has instituted four investigations for the purpose of providing four reports as follows:

Investigation No. 332–542, AGOA: Trade and Investment Performance Overview

In its first report (investigation No. 332–542), the Commission will, as requested by the USTR, address the following topics for sub-Saharan African countries, as defined in the African Growth and Opportunity Act (19 U.S.C. 3701 et seq.) (AGOA), and, where applicable, those AGOA beneficiary countries that are designated as lesser developed beneficiary countries, covering the period 2000–13:

- AGOA trade performance, utilization and competitiveness factors, including (1) a review of the literature on the AGOA preference program, in terms of expanding and diversifying the exports of AGOA beneficiary countries to the United States, compared to preference programs offered by third parties such as the EU; (2) identification of non-crude petroleum sectors (i.e., manufacturing and agricultural) in AGOA beneficiary countries in which exports to the United States, under AGOA and under the U.S. Generalized System of Preferences program, have increased the most, in absolute terms, since 2000, and the key factors behind this growth; (3) a description of the main factors affecting AGOA trade in the principal non-crude petroleum products that AGOA beneficiary countries export and that the United States principally imports from non-sub-Saharan African sources; and (4) based on a review of literature, identification of products with potential for integration into regional or global supply chains, and export potential to the United States under AGOA, as well as factors that affect AGOA beneficiary countries' competitiveness in these sectors.
- AGOA's effects on the business and investment climate in sub-Saharan Africa, including (1) the identification and description of changes, if any, in the business and investment climates in sub-Saharan African countries since 2000, including removal of barriers to domestic and foreign investment; and (2) a description of U.S. goods and services-related investment trends in sub-Saharan African countries since 2000 and a comparison of these trends with investments by other countries in sub-Saharan African countries, including investments by the EU, China, Brazil, and India, and identification of any links between these investment trends and the AGOA program.
- Current or potential reciprocal trade agreements between sub-Saharan African and non-sub-Saharan African partners and the relationship of these agreements to the objectives of AGOA, including (1) a list of reciprocal trade agreements that sub-Saharan African countries have completed or are under negotiation, a brief description of areas covered or likely to be covered under the agreements, and identification of U.S. sectors/products impacted or potentially impacted, including any tariff differentials; and (2) examples of developing countries that have moved from unilateral trade preferences to reciprocal trade agreements, and any effects of the change for the developing country in terms of expansion and diversification of its trade.

The Commission will deliver this first report to the USTR by April 17, 2014. The USTR also stated that it intends to make this report public.

Investigation No. 332–544, AGOA: Economic Effects of Providing Duty-Free Treatment for Imports

In its second report the Commission will, as requested by the USTR, provide an assessment of the economic effects of providing duty-free treatment for imports of products from AGOA beneficiary countries on U.S. industries producing like or directly competitive products and on U.S. consumers. The report will include an assessment of the economic effect on U.S. industries and consumers of imports of articles already eligible for duty-free treatment under AGOA, as well as an assessment of the probable economic effect on U.S. industries and consumers of the extension of duty-free treatment to the remaining articles in chapters 1 through 97 of the Harmonized Tariff Schedule of the United States (HTS). The assessment will take into account implementation of U.S. commitments in the World Trade Organization and will be based on the HTS in effect during 2013 and trade data for 2012.

The Commission will provide this second report to the USTR by April 17, 2014. The USTR stated that this report will be classified.

Investigation No. 332–545, U.S. AGOA Rules of Origin: Possible Changes To Promote Regional Integration and Increase Exports to the United States

As requested by the USTR, in its third report the Commission will, to the extent practicable, identify possible changes to the rules of origin under AGOA that could have the potential to promote regional integration and increase exports to the United States, and the leading manufactured or processed goods (non-petroleum) which might benefit from such changes.

The Commission will provide this third report to the USTR by April 30, 2014. The USTR stated that this report will be classified.

Investigation No. 332–546, EU-South Africa FTA: Impact on U.S. Exports to South Africa

As requested by the USTR, in its fourth report the Commission will, to the extent practicable, provide an assessment of the impact of the EU-South Africa Free Trade Agreement on U.S. exports to South Africa.

This analysis will also identify the U.S. sectors/products with potential for increased U.S. exports if South Africa were to reduce its MFN tariffs for those U.S. products to the tariff levels of the EU-South Africa FTA.

The Commission will provide this fourth report to the USTR by April 17, 2014. The USTR stated that this report will be classified.

The USTR indicated that those sections of the Commission's three confidential reports that relate to assessments and analyses will be classified. The USTR also indicated that he considers the Commission's three confidential reports to be inter-agency memoranda that will contain pre-decisional advice and be subject to the deliberative process privilege.

Public Hearing: A public hearing in connection with these investigations will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on January 14, 2014. Requests to appear at the public hearing should be filed with the Secretary no later than 5:15 p.m., December 13, 2013. All pre-hearing briefs and statements should be filed no later than 5:15 p.m. December 17, 2013; and all post-hearing briefs and statements should be filed no later than 5:15 p.m. January 21, 2014. All such briefs and statements should otherwise comply with the filing requirements in the ''Submissions'' section below. In the event that, as of the close of business on December 13, 2013, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant should contact the Office of the Secretary at 202–205–2000 after December 13, 2013, for information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning any of the four investigations. Each written submission should identify the one or more of the four investigations to which the submission relates. All written submissions should be addressed to the

Secretary, and should be received not later than 5:15 p.m., January 21, 2014. All written submissions must conform to the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 noon eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information (CBI) must also conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties. In his request letter the USTR said that it is the intent of his office to make the Commission's report in the first investigation, No. 332–542 *AGOA: Trade and Investment Performance Overview,* available to the public in its entirety, and asked that the Commission not include any confidential business information or national security classified information in the report that it sends to the USTR. Any confidential business information received by the Commission in this investigation and used in preparing this report will not be published in a manner that would reveal the operations of the firm supplying the information. The Commission may include some or all of the confidential business information submitted in the course of investigation Nos. 332–544, 332–545, and 332–546 in the reports it sends to the USTR in those investigations. The Commission will not otherwise publish any confidential business information in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: November 13, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–27575 Filed 11–18–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–850]

Certain Electronic Imaging Devices; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge has issued a Final Initial Determination and Recommended Determination on Remedy and Bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief, specifically the limited exclusion order (''LEO'') recommended by the ALJ. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

FOR FURTHER INFORMATION CONTACT: Jia Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–4737. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in these investigations. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bonding issued in this investigation on September 30, 2013. Comments should address whether issuance of a LEO in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the LEO would impact consumers in the United States. Written submissions must be filed no later than by close of business on November 21, 2013.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–850'') in a prominent place on the cover page and/or the first page.

(*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with the any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50).

By order of the Commission.
Issued: November 14, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–27666 Filed 11–18–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On November 13, 2013, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of Louisiana in the lawsuit entitled *The United States and The State of Louisiana* v. *The City of Shreveport, Louisiana,* Case No: 5:13–cv–03065. The Consent Decree resolves the claims of Plaintiffs in the complaint against The City of Shreveport, for Shreveport's sanitary sewer overflows in violation of Sections 301 and 309 of the Clean Water Act, 42 U.S.C. 1311 and 1319, and the terms and conditions of Louisiana Pollutant Discharge Elimination permits issued to the City under Section 402 of the Clean Water Act, 42 U.S.C. 1342. Under the proposed Consent Decree, Shreveport has agreed to pay a civil penalty of $650,000 and perform remediation of its wastewater collection treatment system, including the Lucas and North Regional treatment plants, estimated to cost approximately $141 million.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *The United States and the State of Louisiana* v. *The City of Shreveport, Louisiana,* DJ#: 90–5–1–1–2767/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $36.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas P. Carroll,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–27674 Filed 11–18–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Wheatland Pharmacy; Decision and Order

On July 17, 2012, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Wheatland Pharmacy (Applicant), of Dallas, Texas. The Show Cause Order proposed the denial of Applicant's pending application for a DEA Certificate of Registration as a retail pharmacy on the ground that its registration ''would be inconsistent with the public interest,'' as defined in 21 U.S.C. 823(f). GX 7, at 1.

The Show Cause Order alleged that on September 29, 2010, the Administrator issued an Order to Show Cause and Immediate Suspension of Registration to Applicant, and that, on January 18, 2011, Applicant voluntarily surrendered its previous registration. *Id.* at 1–2. Specifically, the Show Cause Order alleged that Lynn Michelle Clark, Applicant's owner/pharmacist, ''unlawfully filled numerous fraudulent controlled substance prescriptions for individuals known to divert these drugs,'' and that she ''knew or should have known that these prescriptions were fraudulent.'' *Id.* at 1. The Show Cause Order further alleged that ''Ms. Clark failed to fulfill her responsibility to dispense controlled substances only pursuant to a prescription issued for a legitimate medical purpose in the usual course of professional practice'' and that she ''also violated federal law by delivering prescriptions for controlled substances to persons who were not the ultimate users of the controlled substances.'' *Id.* at 1–2 (citing 21 U.S.C. 829, 841(a)(1), 842(a) and 802(10) & (27)). Finally, the Order alleged that on July 7, 2011, Ms. Clark submitted an application for a new registration on Applicant's behalf.[1] *Id.* at 1.

Thereafter, Applicant apparently requested a hearing on the allegations and the matter was placed on the docket of the Office of Administrative Law Judges. However, on October 4, 2012, Applicant moved for a stay of the proceeding pending action on its request to withdraw its application, and on October 5, 2012, the ALJ granted the motion. GX 14, at 1.

On November 7, 2012, the Deputy Assistant Administrator, Office of Diversion Control, denied Applicant's request to withdraw. GX 13, at 1. Thereafter, on November 26, 2012, Applicant filed with the ALJ a letter waiving its right to a hearing, citing 21 CFR 1301.43(e). GX 13, at 3. The next day, the ALJ found that Applicant had waived its right to a hearing; the ALJ thus lifted the stay of the proceeding and ordered that the proceeding be terminated. GX 14.

On June 12, 2013, the Government filed a Request for Final Agency Action and the Investigative Record with this Office. Req. for Final Agency Action, at 14. Therein, the Government requests that I deny Applicant's pending

[1] The Show Cause Order also notified Applicant of its right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequences for failing to do so. *See* 21 CFR 1301.43.

application for a DEA Certificate of Registration. Based on Applicant's November 26, 2012 letter waiving its right to a hearing, I find that Applicant has waived its right to a hearing and issue this Decision and Final Order based on the Investigation Record submitted by the Government. 21 CFR 1301.43(e). I make the following factual findings.

Findings

Applicant is a pharmacy located at 3207 Kirnwood Drive, Suite 116, Dallas, Texas, which is owned and operated by Lynn Michelle Clark, a registered pharmacist. GX 3; *see also* GX A. On August 12, 2009, the Texas State Board of Pharmacy (TSBP) issued an order suspending Applicant's license for one year; however, the suspension was then probated subject to Applicant's compliance with the terms of the order.[2] GX 1, at 3.

On November 3, 2009, a DEA Diversion Investigator (DI) conducted a pre-registration investigation of Applicant. GX B, at 2. On November 13, 2009, Applicant was issued DEA Certificate of Registration FW1734309, which authorized it to dispense controlled substances in schedules II through V as a retail pharmacy. GX 2.

The 2010 Investigation

On May 7, 2010, Ms. Clark contacted the DEA-Dallas Field Division to report that the day before, a van arrived at Applicant carrying approximately twenty-seven (27) persons, each of whom presented prescriptions for the same three controlled substances: hydrocodone, alprazolam, and promethazine with codeine syrup. GX B, at 2. These prescriptions were all purportedly issued by a Physician's Assistant (PA) who worked for a medical clinic in Houston, Texas, approximately 239 miles away. *Id.; see also* GX C, at 2. Ms. Clark filled all of these prescriptions. GX C, at 2.

Ms. Clark also reported that on May 7, another twenty (20) persons had arrived in a van and presented prescriptions, which were also purportedly issued by the same PA and were for the same controlled substances. *Id.* Ms. Clark also stated that she filled all of these prescriptions, although several days later, she claimed that she had yet to fill some of them. *Id.* at 2–3; *see also* GX B, at 2.

Ms. Clark told a DEA Diversion Investigator (DI) that she had contacted the PA and was told that the prescriptions were valid. GX B, at 2–3. However, the DI later determined that Ms. Clark's statement was false. *Id.* at 3. During the conversation, the DI advised Ms. Clark that ''she could decline to fill such prescriptions'' and also reminded her ''of a pharmacy's corresponding responsibility'' under the Controlled Substances Act. *Id.*

On May 10, 2010, a DEA Special Agent (SA) and a Task Force Officer (TFO) interviewed Ms. Clark at Applicant. GX C, at 2. According to the SA's affidavit, Ms. Clark ''chang[ed] her story several times'' and ''finally admitted that all of the prescriptions . . . purportedly issued by the PA had been brought to the pharmacy from May 5 through May 7, 2010, not by individual patients, but by one individual later identified'' by the alias of SF. *Id.* Ms. Clark claimed that she verified the validity of the prescriptions with personnel at the PA's office. *Id.* Ms. Clark further said that she had not filled all of the prescriptions which SF had presented to her because she had to order the drugs;[3] she was then instructed by the SA ''to fill some of the prescriptions,'' so that law enforcement could monitor SF's activities. *Id.* at 2–3.

On May 14, 2010, the SA and TFO returned to Applicant. *Id.* at 3. Ms. Clark informed the SA and TFO that the day before, KD, a known associate of SF, had presented additional controlled substance prescriptions (for alprazolam and either promethazine or hydrocodone), which were also purportedly issued by the PA, but that she did not fill those prescriptions.[4] *Id.* Ms. Clark stated that she had again called the Houston clinic, and on this occasion, spoke to the PA, who told her that the prescriptions were fraudulent. *Id.* According to the SA, Ms. Clark was then told not to fill any further prescriptions from the clinic. *Id.*

On June 23, 2010, Agents from DEA and TSBP executed a search warrant at Applicant. *Id.* at 4. DEA seized numerous prescriptions for controlled substances which were purportedly issued by the aforementioned PA. *Id.*

The Government submitted evidence of prescriptions for fifteen different patients, all of which were purportedly issued by the PA at the Houston-based clinic, located 239 miles from Applicant. *See generally* GX 6. Each prescription was pre-printed with the clinic name, address, phone and fax numbers, the names of a physician and the PA, and both practitioners' DEA and Texas Department of Public Safety registration numbers. *See id.* On each prescription, the PA's name was checked, indicating that she was the prescribing practitioner. *Id.* A review of the patients' addresses shows that all of them resided in the Dallas metropolitan area, at least 230 miles from the Houston clinic, and that thirteen of the patients lived more than fourteen (14) miles from Applicant. *Id.;* GX C, at 4. For example, one prescription lists the patient's address as: 2400 Skyline Dr., Dallas TX, 75149; this address is 253 miles from the Houston clinic, and 22 miles from Applicant. GX 6, at 66.

As part of the record, the Government submitted evidence showing that on May 5 and 6, 2010, Applicant filled the following prescriptions for twenty-four controlled substances, each of which was purportedly issued by the PA at the Houston clinic on May 4, 2010:

1. For SF: 120 Lortab 10/500 mg (hydrocodone/acetaminophen, a schedule III controlled substance), 240 ml of promethazine/codeine syrup (a schedule III controlled substance), and 90 Xanax 2 mg (a schedule IV controlled substance), along with amoxicillin (a non-controlled drug), for a stated diagnosis of chronic pain/anxiety/bronchitis. GX 6, at 3.

2. For BJW: 120 Norco 10/325 mg (hydrocodone and acetaminophen), 240 ml promethazine/codeine, and 90 Xanax 2 mg, as well as folic acid, for chronic pain/anxiety/bronchitis. *Id.* at 8.

3. For WH: 120 Lortab 10/500 mg, 240 ml promethazine/codeine, 90 Xanax 2 mg, along with Lovastatin (a non-controlled drug), for chronic pain/anxiety/bronchitis. This prescription bore a handwritten note stating: ''verified Michael Reed, RN.'' *Id.* at 15.

4. For HL: 120 Norco 10/325 mg, 240 ml promethazine/codeine, 90 Xanax 2 mg, along with Pravastatin (a non-controlled drug), for chronic pain/anxiety/bronchitis. *Id.* at 20.

5. For LY: 120 Lortab 10/500 mg, 240 ml promethazine/codeine, 90 Xanax 2 mg, and amoxicillin, again for chronic pain/anxiety/bronchitis. *Id.* at 25.

6. For DSD: 120 Norco10/325 mg, 240 ml promethazine/codeine, 90 Xanax 2 mg, and Lovastatin, for chronic pain/anxiety/bronchitis. *Id.* at 30.

7. For SJ: 120 Lortab 10/500 mg, 240 ml promethazine/codeine, 90 Xanax 2 mg, and folic acid for chronic pain/anxiety/bronchitis. *Id.* at 37. This prescription also bore a handwritten

[2] The basis for the order was a deferred adjudication in 1991 following Ms. Clark's guilty plea to a felony charge of Theft of Service in the District Court of Harris County, Texas. The record does not reflect why TSBP waited 18 years to issue the probationary order. The order required Applicant to ''obey . . . all Federal laws and laws of the State of Texas with respect to pharmacy, controlled substances, [and] dangerous drugs.'' GX 1, at 3.

[3] The record, however, is not clear as to how many of the prescriptions she had filled at the time of the May 10 interview.

[4] None of these prescriptions are in the record.

note stating: ''RX & PA verified by Shaquanna @ (713) 799–9400 same address.'' However, the pre-printed phone number on the prescription is (832) 236–5688.[5] *Id.*

A patient profile from Applicant also establishes that on May 5 and 6, 2010, Ms. Clark dispensed to LH 120 hydrocodone/apap 10/500 mg, 240 ml promethazine/codeine syrup, and 90 alprazolam 2 mg, along with Lovastatin, with the same PA's name listed as the doctor. *Id.* at 40. However, the record contains neither a prescription nor labels for these medications.

The record includes evidence including prescriptions,[6] pharmacy labels, and patient profiles establishing that between June 9 and 12, 2010, Respondent dispensed additional prescriptions, which were also purportedly issued by the same Houston-based PA for eleven persons. *See generally* GX 6. The evidence shows that Respondent dispensed a total of thirty-three controlled substances, specifically for 120 Lortab 10/500 mg, 240 ml promethazine/codeine, and 90 Xanax 2 mg.[7] *See id.* at 13, 18, 35, 42, 47, 52, 57, 62, 66, 71, 74. These prescriptions were issued to patients WH, VH, SJ, LFH, SD, EC, HJ, JM, BJR, KJ, and FW; each of the prescriptions listed the same three diagnoses of chronic pain/anxiety/bronchitis.[8] *See id.; see also id.* at 12, 34, 42, 46, 51, 61, 66–A, 70, 74.

Ms. Clark filled the June 2010 prescriptions after she told the SA that the PA had personally informed her that the prescriptions were fraudulent. Moreover, Ms. Clark filled the prescriptions, notwithstanding that the SA had previously told her to stop filling the PA's prescriptions. GX C, at 4; GX 6, at 11–22, 33–77.

A TSPB Investigator presented copies of the above-referenced prescriptions and other records from Applicant to the PA at the Houston clinic for her review. GX A, at 3. After reviewing these records, the PA provided affidavits wherein she stated that she ''did not write a prescription for, call in . . . or by any other means cause the authorization for'' each patient listed above. *Id.; see also* GX 6, at 4, 9, 16, 21, 31, 38, 43, 48, 53, 58, 63, 67, 72, 76.

The Accountability Audit

During the execution of the search warrant, the DI, along with TSPB investigators, conducted a closing inventory of controlled substances. GX B, at 3. In her affidavit, the DI stated that Ms. Clark signed the closing inventory sheet attesting to its accuracy, and that she later used that inventory in an accountability audit she conducted of Applicant's handling of six hydrocodone products from November 13, 2009 through June 23, 2010. *Id.* According to the DI's affidavit, each of the audited drugs had a shortage or overage, with some types (notably hydrocodone 10/500) short as many as 4,000 tablets. *Id.; see also* GX 12. However, the Government made no allegation in the Show Cause Order based on the results of the accountability audit and I therefore do not consider any of this evidence. *See Kenneth Harold Bull,* 78 FR 62666, 62674 (2013); *CBS Wholesale Distributors,* 74 F 36746, 36749–50 (2009).

The DI also stated that her review of prescriptions seized from Applicant revealed that it filled controlled substance prescriptions that were not properly executed by the prescribing practitioner (*i.e.,* they lacked physician's DEA registration number, patient address, date prescription issued, etc.) in violation of 21 CFR 1306.05. GX B, at 3. While this evidence may have been relevant on the issue of whether Ms. Clark should have known the PA's prescription were fraudulent, none of the prescriptions were submitted for the record and it is unclear whether any of these prescriptions were issued by the PA. Moreover, to the extent the prescriptions were issued by other prescribers, the Government made no allegation in the Show Cause Order regarding the filling of these prescriptions.[9] *See Bull,* 78 FR at 62674; *CBS Wholesale,* 74 FR at 367449–50. I therefore do not consider any of this evidence.

As noted above, on September 29, 2010, the Administrator issued an Order to Show Cause and Immediate Suspension of Registration (OTSC–ISO) to Applicant. GX 4, at 1–3. On October 4, 2010, Applicant's owner was personally served with the OTSC–ISO, and all controlled substances at Applicant were seized by the DEA Dallas field office. GX C, at 4. The OTSC–ISO specified that Applicant's registration was ''suspended, effective immediately,'' and would remain suspended until a final determination in the matter was reached. GX 4, at 3. On January 18, 2011, Applicant voluntarily surrendered its registration. GX 5; *see also* Certified Registration History, GX 2.

On July 7, 2011, Applicant re-applied for a registration. GX 3.

The 2012 Investigation

On August 14, 2012, DEA was alerted by the Pharmacy Buying Association (PBA), a pharmaceutical distributing company, that Applicant ordered 1,000 tablets of carisoprodol, a schedule IV controlled substance in Texas,[10] on December 1, 2010, December 27, 2010, and February 15, 2011. GX C, at 5. Based on this information, an SA accessed the Texas prescription monitoring data for this period and discovered that Applicant had dispensed controlled substances on ten occasions after its DEA registration was suspended on October 4, 2010. *Id.* Specifically, the SA found that Applicant made the following dispensings:

Date	Drug and schedule
Oct. 7, 2010 ...	propoxyphene napsylate (sch. IV)
Oct. 9, 2010 ...	Lyrica (pregabalin, sch. V)
Oct. 9, 2010 ...	Provigil (modafinil, sch. IV)
Oct. 11, 2010	diazepam (sch. IV)
Oct. 19, 2010	clonazepam (sch. IV)
Oct. 19, 2010	Lyrica
Oct. 26, 2010	hydrocodone (sch. III)
Oct. 26, 2010	propoxyphene napsylate (two prescriptions)
Oct. 27, 2010	lorazepam (sch. IV)

GX C, at 5.

[5] Also in evidence for each of the prescriptions discussed above, with the exception of the prescriptions for LH, is the pharmacy label for each medication. GX 6, at 2, 7, 14, 19, 24, 28, 36.

[6] The prescriptions for Patient VH and FW were missing. However, the pharmacy's patient profile for VH establishes that on June 9, 2010, Applicant dispensed hydrocodone, alprazolam, and promethazine with codeine based on a prescription purportedly issued to her by the PA. GX 6, at 18. With respect to FW, both the patient profile and the pharmacy labels establish that on June 12, 2010, Applicant dispensed the same three drugs based on a prescriptions purportedly issued to him by the PA. GX 6, at 74–75.

[7] In his affidavit, the SA stated that the above-referenced combination of hydrocodone, alprazolam and promethazine with codeine syrup is known in the Dallas area as an illicit drug cocktail that is commonly abused and/or diverted by drug seekers and individuals involved in the trafficking of controlled substances. GX C, at 2. However, no evidence establishes why a pharmacist would know this.

[8] The names of four of the purported patients (WH, HL, SJ, and LFH) had been previously used on the prescriptions which were presented in May.

[9] The DI also stated that Applicant commingled controlled substance prescriptions with non-controlled substance prescriptions. GX B, at 3. Because the Show Cause Order contains no allegation based on this assertion, I do not consider this evidence.

[10] Carisoprodol was scheduled as a Schedule IV controlled substance by the Texas Legislature in June 2009. *See* 2009 Tex. Sess. Law Serv. Ch. 774 (S.B. 904) (codified in Tex. Health & Safety Code Ann. § 481.037). However, there is no evidence in the Investigative Record that Applicant did not hold a Texas controlled substance registration when it obtained these drugs and the rule placing carisoprodol into Schedule IV of the CSA did not take effect until January 11, 2012. *See* DEA, *Schedules of Controlled Substances: Placement of Carisoprodol into Schedule IV,* 76 FR 77330 (2011).

On August 30, 2012, the Texas Department of Public Safety (DPS) performed a registrant inspection of Applicant. GX A, at 3. The state inspector found that on October 4, 2010, Applicant had dispensed 30 capsules of Lyrica. *Id.* However, it is unclear whether the dispensing occurred before or after the ISO was served.[11]

Later that day, a state search warrant was executed at Applicant by local law enforcement entities and DEA personnel. GX C, at 6. During the search, the officers seized prescription vials labeled as containing hydrocodone, propoxyphene napsylate, lorazepam and Lyrica, pharmacy receipt labels, prescriptions for controlled substances, and controlled substance dispensing records. *Id.; see also* GX 8. The vials were affixed with labels from both Applicant and other Dallas pharmacies.[12] GX 8, at 2; GX C, at 7.

During the search, the Officers found controlled substance prescriptions from various doctors on Applicant's fax machine. GX C, at 8. When asked about the prescriptions, Ms. Clark asserted that she transferred them to other pharmacies to fill, and that she would sometimes bring the filled controlled-substance prescriptions back to Applicant and put them with the non-controlled substance prescriptions to be dispensed or delivered. *Id.* Ms. Clark also stated that on some occasions, patients came into Applicant to pick up their controlled and non-controlled substance prescriptions. *Id.* The Government did not, however, provide copies of the prescriptions nor identify how many it found; nor did it produce any evidence regarding the veracity of Ms. Clark's statement that she sent the prescriptions to other pharmacies for filling.

In his affidavit, the SA stated that Applicant was dispensing controlled substances to clients classified as home healthcare service providers through August 2012. GX C, at 8. He also stated that he had interviewed the program director and medical assistant at BCA, a home healthcare provider, and was told that Applicant ''delivered controlled substances to BCA for dispensing to BCA's clients,'' and that it ''was the sole provider of all prescriptions filled for BCA.'' [13] *Id.*

During the interview, BCA's medical assistant showed the SA a prescription blister pack for 60 tablets of lorazepam .5mg; the label affixed to the pack establishes that Applicant dispensed the drugs on August 1, 2012. *See* GX C, at 8–9; GX 9, at 1–2. The medical assistant also showed the SA a second blister pack, which originally contained 60 tablets of clonazepam 1 mg; its label establishes that Applicant dispensed the drugs on August 28, 2012. GX C, at 8–9; GX 9, at 3–5.

Discussion

Pursuant to section 303(f) of the Controlled Substances Act (CSA), ''[t]he Attorney General may deny an application for [a practitioner's] registration . . . if the Attorney General determines that the issuance of such registration would be inconsistent with the public interest.'' 21 U.S.C. 823(f); *see also id.* § 802(21) (defining ''[t]he term 'practitioner''' to include a pharmacy). In making the public interest determination, Congress directed that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The Applicant's experience in dispensing . . . controlled substances.

(3) The Applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Id.

''These factors are to be considered in the disjunctive.'' *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). I ''may rely on any one or a combination of factors and may give each factor the weight . . . [I] deem[] appropriate in determining whether . . . an application for registration [should be] denied.'' *Id.; see also Kevin Dennis, M.D.,* 78 FR 52787, 52794 (2013); *MacKay* v. *DEA,* 664 F.3d 808, 816 (10th Cir. 2010). Moreover, while I am required to consider each of the factors, I ''need not make explicit findings as to each one.'' *MacKay,* 664 F.3d at 816 (quoting *Volkman* v. *DEA,* 567 F.3d 215, 222 (6th Cir. 2009) (quoting *Hoxie,* 419 F.3d at 482)).[14]

The Government has the burden of proving, by substantial evidence, that grounds exist to deny the application pursuant to 21 U.S.C. 823(f). 21 CFR 1301.44(d). This is so even in a non-contested case.

Having considered all of the factors, I conclude that the Government's evidence with respect to Applicant's experience in dispensing controlled substances (factor two) and its compliance with applicable state and federal laws relating to controlled substances (factor four), establishes a *prima facie* case that issuing it a new registration ''would be inconsistent with the public interest.'' 21 U.S.C. 823(f). Because Applicant waived its right to present evidence in refutation of the Government's *prima facie* case, I will order that its application be denied.

Factor 1: The Recommendation of the Appropriate State Licensing Board or Professional Disciplinary Authority

Applicant currently holds a pharmacy license issued by the Texas State Board of Pharmacy and a Controlled Substance Registration issued by the Texas Department of Public Safety. As found above, in 2009 the TSBP issued an Order suspending Applicant's license on the basis of a felony offense of theft of services in 1991. The Board then probated the suspension, conditioned

[11] There is a conflict in the statements of the Government's witnesses as to whether this prescription, which was issued on October 4, 2010, was dispensed on that date or on October 9, 2010. *Compare* GX A, at 3; *with* GX C, at 5–6. However, there is no evidence that either affiant participated in the DPS's Inspection and both affiants apparently relied on the hearsay statement of the DPS Investigator. As the Government has the burden of proving its allegations by a preponderance of the evidence, and it has provided no further evidence to resolve the dispute, to the extent this evidence was offered to support a finding that Applicant dispensed a controlled substance after it was served with the ISO, I place no weight on it.

[12] When asked why she continued to possess controlled substances, Ms. Clark ''stated that DEA must have left the drugs on the premises when they seized [her] controlled substances on October 4, 2010.'' GX C, at 7–8.

[13] Also included in the record is a signed statement by the BCA program director stating that she ''has seen the pharmacist drop of [sic] medication to this office from Wheatland Pharmacy. I have seen Michelle drop of [sic] medication from Wheatland Pharmacy.'' GX 10. However, this statement does not indicate whether the delivered medication included controlled substances. Moreover, while the statement was witnessed by an SA and TFO, it does not include an attestation clause.

However, the record also includes a statement from the Medical Assistant. GX 11. Therein, the Medical Assistant stated that ''since [she] returned to the Grand Prairie office on May 1st 2012, all the medications received from Wheatland pharmacy, all had labels from Wheatland pharmacy, controlled and non-controlled medications.'' *Id.* The Medical Assistant also stated that when Applicant delivered drugs, she would review the medications to make sure that it was the correct drug for each patient. *Id.* This statement was also witnessed by an SA and TFO, and contained an attestation clause. *See id.* at 2. I therefore find that it constitutes substantial evidence that Applicant continued to dispense controlled substances when it did not possess a DEA registration.

[14] ''In short, this is not a contest in which score is kept; the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant's misconduct.'' *Jayam Krishna-Iyer,* 74 FR 459, 462 (2009). Accordingly, as the Tenth Circuit has recognized, findings under a single factor can support the revocation of a registration. *See MacKay,* 664 F.3d at 821.

upon Applicant complying with the terms of the order, including that it comply with by all federal and state laws ''with respect to pharmacy, controlled substances, dangerous drugs,'' as well as ''all rules and regulations adopted pursuant to the above-mentioned statutes.'' GX 1, at 3. The Government has provided no additional evidence that since 2009, either the TSBP or TDPS have taken action either against Applicant's pharmacy license or its state controlled substance registration. GX A.

DEA has long held, however, that a State's failure to take action against an applicant's pharmacy license or controlled substance registration (where such registration is also required) is not dispositive in determining whether the continuation of a registration is in the public interest. *East Main Street Pharmacy,* 75 FR 66149, 66162 n.47 (2010); *Nicholas A. Sychak, d/b/a Medicap Pharmacy,* 65 FR 75959, 75967 (2000). ''[T]he Controlled Substances Act requires that the Administrator . . . make an independent determination [from that made by state officials] as to whether the granting of controlled substance privileges would be in the public interest.'' *Mortimer Levin,* 57 FR 8680, 8681 (1992). Thus, while there is no evidence that the Texas Board has revoked Applicant's pharmacy license or its state registration, DEA has repeatedly held that while a practitioner's possession of state authority constitutes an essential condition for obtaining and maintaining a registration, *see* 21 U.S.C. 802(21) & 823(f); it '' 'is not dispositive of the public interest inquiry.' '' *George Mathew,* 75 FR 66138, 66145 (2010), *pet. for rev. denied Mathew* v. *DEA,* No. 10–73480, slip op. at 5 (9th Cir., Mar. 16, 2012); *see also Patrick W. Stodola,* 74 FR 20727, 20730 n.16 (2009); *Robert A. Leslie,* 68 FR 15227, 15230 (2003). Thus, this factor is not dispositive either for or against the issuance of a registration to Applicant. *See Paul Weir Battershell,* 76 FR 44359, 44366 (2011) (citing *Edmund Chein,* 74 FR 6580, 6590 (2007), *pet. for rev. denied, Chein* v. *DEA,* 533 F.3d 828 (D.C. Cir. 2008)).[15]

Factors Two and Four: The Applicant's Experience in Dispensing Controlled Substances and Compliance With Applicable State, Federal or Local Laws Relating to Controlled Substances

Under a longstanding DEA regulation, a prescription for a controlled substance is unlawful unless it has been ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a). This regulation further provides that while ''[t]he responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, . . . *a corresponding responsibility rests with the pharmacist who fills the prescription.'' Id.* (emphasis added). Continuing, the regulation states that ''[a]n order purporting to be a prescription issued not in the usual course of professional treatment . . . is not a prescription . . . and the person knowingly filling such a purported prescription . . . shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.'' *Id.*[16]

DEA has consistently interpreted this provision ''as prohibiting a pharmacist from filling a prescription for a controlled substance when [s]he either 'knows or has reason to know that the prescription was not written for a legitimate medical purpose.''' *Medicine Shoppe-Jonesborough,* 73 FR 364, 381, *pet. for rev. denied, Medicine Shoppe-Jonesborough* v. *DEA,* 300 Fed. Appd'x. 409, 412 (6th Cir. 2008) (quoting *Medic-Aid Pharmacy,* 55 FR 30043, 30044 (1990)); *see also Frank's Corner Pharmacy,* 60 FR 17574, 17576 (1995); *Ralph J. Bertolino,* 55 FR 4729, 4730 (1990); *United States* v. *Seelig,* 622 F.2d 207, 213 (6th Cir. 1980). This Agency has further held that ''[w]hen prescriptions are clearly not issued for legitimate medical purposes, a pharmacist may not intentionally close [her] eyes and thereby avoid [actual] knowledge of the real purpose of the prescription.'' *Bertolino,* 55 FR at 4730 (citations omitted). The regulation thus ''requires . . . pharmacists [to] use common sense and professional judgment.'' *Id.*

Similarly, under the TSBP's regulations, a pharmacist is required to ''exercise sound professional judgment with respect to the accuracy and authenticity of any prescription drug order dispensed.'' 22 Tex. Admin. Code § 291.29(a). Moreover, ''[a] pharmacist shall not dispense a prescription drug if the pharmacist knows or should have known that the order for such drug was issued without a valid pre-existing patient-practitioner relationship.'' *Id.* § 291.29(b). The TSBP's regulations identify various ''[r]easons to suspect that a prescription may have been authorized in the absence of a valid patient-practitioner relationship,'' including, *inter alia:* ''(1) The number of prescriptions authorized on a daily basis by the practitioner; (2) the manner in which the prescriptions are . . . received by the pharmacy; [and] (3) [t]he geographical distance between the practitioner and the patients.'' *Id.* § 291.29(c)(1)–(3).

Here, the evidence shows that Ms. Clark, Applicant's owner and pharmacist, clearly knew or had reason to know that the prescriptions presented on May 6, 2010 by SF, which were purportedly issued by the Houston-based PA for some twenty-seven patients, each of whom received the same three controlled substances (hydrocodone/acetaminophen, promethazine with codeine cough syrup, and alprazolam), were not issued for a legitimate medical purpose. 21 CFR 1306.04(a). Ms. Clark had ample reason to know that the prescriptions were not legitimate given that the PA, whose prescription pad had been used, practiced in Houston, approximately 240 miles from Applicant; each of the persons received the same combination of controlled substances; and Ms. Clark eventually admitted that all of the prescriptions had been brought to Applicant by SF. Ms. Clark nonetheless filled the prescriptions.[17] Moreover,

[15] As for factor three—the Applicant's Record of Convictions of Offenses Related to the Manufacture, Distribution, or Dispensing of Controlled Substances—it is noted that the TSBP's 2009 Order was based on a 1991 felony conviction of Ms. Clark for theft of services. GX 1, at 1. However, the Government does not contend that this offense falls within factor three. Moreover, there is no evidence that either Applicant or Ms. Clark has been criminally charged, let alone convicted of, any of the misconduct established on this record. Accordingly, consistent with DEA precedent, I find that this factor neither weighs in favor of, or against a determination that Applicant's registration ''would be inconsistent with the public interest.'' 21 U.S.C. § 823(f). *See also Dewey C. MacKay,* 75 FR 49956, 49973 (2010); *Edmund Chein,* 72 FR 6580, 6593 n.22 (2007).

[16] To effectuate the dual goals of conquering drug abuse and controlling both legitimate and illegitimate traffic in controlled substances, ''Congress devised a closed regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA.'' *Gonzales v. Raich,* 545 U.S. 1, 13 (2005). As the Supreme Court has explained, the prescription requirement, 21 CFR 1306.04(a), advances this purpose by ''ensur[ing that] patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse. As a corollary, [it] also bars doctors from peddling to patients who crave the drugs for those prohibited uses.'' *Gonzales v. Oregon,* 546 U.S. 243, 274 (2006) (citing *United States v. Moore,* 423 U.S. 122, 135, 143 (1975)).

[17] In *East Main Street Pharmacy,* the Administrator noted the following examples of red flags, including the respective locations of the patients and prescriber and that patients were travelling long distances to both obtain the prescriptions and fill them (and were bypassing numerous pharmacies en route), the lack of individualization of dosing, and that the patients were obtaining the same combination of multiple controlled substances. 75 FR 66149, 66157–59 & 66164 (2010).

while Ms. Clark claimed to DEA Investigators that she had verified the prescriptions with the PA's office, the Investigators ultimately determined that she did not do so. I thus hold that Ms. Clark violated federal law by filling each of these prescriptions. 21 U.S.C. 841(a)(1); 21 CFR 1306.04(a).

The following day, Ms. Clark again violated federal law by filling at least some of prescriptions for the same three controlled substances, which were purportedly issued in the name of twenty persons by the same Houston-based physician's assistant, whose prescriptions she filled the day before. Here again, the prescriptions were presented to Ms. Clark by SF, and here again, Ms. Clark falsely claimed that she verified the prescriptions with the PA's office. While Ms. Clark subsequently stated that she had not filled all of the prescriptions, she admitted to filling some of them. I thus hold that Ms. Clark violated federal law with respect to those prescriptions she did fill. 21 U.S.C. 841(a)(1); 21 CFR 1306.04(a).[18]

On May 14, 2010, Ms. Clark told Investigators that the day before, KD, a known associate of SF, had brought in additional controlled substance prescriptions for alprazolam and either promethazine or hydrocodone, which were also purportedly issued by the same Houston-based PA. GX C, at 3. Ms. Clark told the Investigators that she did not fill the prescriptions because she had actually spoken with the PA and was told that the prescriptions were fraudulent. Moreover, during the interview, Ms. Clark was told not to fill any further prescriptions from the PA's clinic.[19]

Notwithstanding that Ms. Clark had been told by the PA that the prescriptions that were being presented at her pharmacy were fraudulent (and had also been told by a DEA Agent not to fill them)—as if she needed to be told, given the circumstances of a single person presenting on multiple days, prescriptions for multiple controlled substances for more than forty patients, all of which were purportedly issued by a PA located nearly 240 miles away—she proceeded to fill additional prescriptions which were purportedly issued by the PA. *See* GX C, at 4; *see generally* GX 6. As the evidence shows, on or about June 9, 2010, Ms. Clark received eleven more prescription forms, which were purportedly issued by the PA and authorized the dispensing of thirty-three additional prescriptions for the same cocktail of hydrocodone, promethazine with codeine, and alprazolam, which she had previously filled. Moreover, some of the prescriptions used the names of the same ''patients'' whose names were used on the fraudulent prescriptions presented by SF to Ms. Clark in early May. Nonetheless, Ms. Clark filled the prescriptions, in abject disregard of her corresponding responsibility under the CSA not to fill clearly fraudulent prescriptions. *See* 21 CFR 1306.04(a).[20] Ms. Clark's filling of the prescriptions is egregious misconduct and supports the conclusion that issuing Applicant a new registration ''would be inconsistent with the public interest.'' 21 U.S.C. 823(f).

This, however, is not the only misconduct proved on this record, as there is substantial evidence showing that after Ms. Clark was served with the Immediate Suspension Order on October 4, 2010, she continued to dispense controlled substances and did so notwithstanding that the Order, in addition to its title, clearly stated that it was ''effective immediately.'' GX 4, at 3. More specifically, the evidence shows that Applicant dispensed ten prescriptions for controlled substances between October 7 and October 27, 2010. GX C, at 5. Moreover, the evidence showed that Applicant was still dispensing controlled substances in August 2012, even though Ms. Clark had voluntarily surrendered Applicant's DEA registration in January 2011. *See* GX 5 (Voluntary Surrender form); GX 9 (blister packs for drugs dispensed on August 1 and 28, 2012). Indeed, Investigators found that Applicant was still receiving prescriptions for controlled substances, notwithstanding that the Immediate Suspension Order had been served on Ms. Clark nearly two years earlier.

Under the CSA, it is ''unlawful for any person knowingly or intentionally . . . to use in the course of the manufacture, distribution, or dispensing of a controlled substance . . . a registration number which is revoked [or] suspended.'' 21 U.S.C. 843(a). Also, ''[e]very person who dispenses, or who proposes to dispense, any controlled substance, shall obtain from the Attorney General a registration issued in accordance with the rules and regulations promulgated by him.'' *Id.* § 822(a)(2). Finally, a DEA regulation expressly provides that ''[n]o person required to be registered shall engage in any activity for which registration is required until the application for registration is granted and a Certificate of Registration is issued by the Administrator to such person.'' 21 CFR 1301.13(a). *See also* 21 U.S.C. 841(a) (''Except as authorized by this subchapter it shall be unlawful for any person knowingly or intentionally to dispense or possess with intent to . . . dispense . . . a controlled substance.'')[21]

Here again, it is clear that Ms. Clark and Applicant flagrantly violated federal law by dispensing controlled substance knowing that she and Applicant lacked authority to do so. While, by itself, Ms. Clark's egregious misconduct in dispensing the fraudulent prescriptions warrants the denial of Applicant's application, Ms. Clark's further misconduct in dispensing controlled substances when she lacked the authority to do so provides an additional basis which supports the conclusion that the issuance of a new registration to Applicant ''would be inconsistent with the public interest.'' 21 U.S.C. 823(f). Because Applicant waived its right to a hearing or to submit a written statement in lieu of hearing, there is no evidence to the contrary. Accordingly, I will order

[18] However, with respect to those prescriptions she filled based on the instruction of Agency personnel to do so, so that the latter could monitor SF's activities, I do not find that she violated federal law in doing so.

[19] It is noted that on her application, Ms. Clark disputed that she was told not to fill the prescriptions, stating that ''DEA Agents never advised or admonished [her] not to fill the prescriptions.'' GX 3. However, I find credible the statement of the SA that during May 14, 2010 interview, he told her not to fill any further prescriptions from the PA's clinic. GX C, at 3.

[20] The Government also alleged that Applicant and ''Ms. Clark violated federal law by delivering prescriptions for controlled substances to persons who were not the ultimate users of the'' drugs. GX 7, at 2. Because by definition, ''the term 'ultimate user' means a person *who has lawfully obtained,* and who possesses, a controlled substance for his own use or for the use of a member of his household,'' 21 U.S.C. 802(27) (emphasis added), and it is indisputable that all of the PA's prescriptions were fraudulent, the allegation is simply duplicative of the allegation that Ms. Clark dispensed controlled substances when she had reason to know that the prescriptions were fraudulent and thus obviously not issued for a legitimate medical purpose.

[21] While the Government also introduced evidence showing that the Investigators found on Applicant's premises several vials of controlled substances that had been dispensed by other pharmacies to persons other than Ms. Clark, it neither offered evidence establishing that the drugs were tested and found to be a controlled substance, nor evidence showing that the drugs match the physical appearance of the various medications as set forth in the Physicians' Desk Reference. Moreover, the Government offered no evidence showing that the patients listed on the vials were not employees of Applicant.

As for the three purchases of carisoprodol, as found above, all of these purchases occurred before the drug became a federally controlled substance on January 11, 2012. *See* 76 FR 77330. Moreover, while at the time of the purchase, carisoprodol was a schedule IV controlled substance under Texas law, there is no evidence that Applicant did not hold a DPS registration at the time of the purchases. Thus, I do not place any weight on this evidence.

that Applicant's pending application be denied.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f), as well as 28 CFR 0.100(b) and 28 CFR 0.104, I order that the application of Wheatland Pharmacy, for a DEA Certificate of Registration as a retail pharmacy, be, and it hereby is, denied. This order is effective immediately.

Dated: November 8, 2013.

Thomas M. Harrigan,

Deputy Administrator.

[FR Doc. 2013–27700 Filed 11–18–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application; Mylan Pharmaceuticals, Inc.

Pursuant to Title 21 Code of Federal Regulations 1301.34(a), this is notice that on October 7, 2013, Mylan Pharmaceuticals, Inc., 781 Chestnut Ridge Road, Morgantown, West Virginia 26505, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the following basic classes of controlled substances:

Drug	Schedule
Amphetamine (1100)	II
Methylphenidate (1724)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Methadone (9250)	II
Morphine (9300)	II
Fentanyl (9801)	II

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials in which the foreign FDF will be compared to the company's own domestically-manufactured FDF. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances listed in schedule II, which falls under the authority of section 1002(a)(2)(B) of the Act (21 U.S.C. 952(a)(2)(B)) may, in the circumstances set forth in 21 U.S.C. 958(i), file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODW), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than December 19, 2013.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, 40 FR 43745–46, all applicants for registration to import basic classes of any controlled substances in schedules I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: November 12, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–27660 Filed 11–18–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application; GE Healthcare

Pursuant to Title 21, Code of Federal Regulations 1301.34(a), this is notice that on September 18, 2013, GE Healthcare, 3350 North Ridge Avenue, Arlington Heights, Illinois 60004–1412, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Cocaine (9041), a basic class of controlled substance listed in schedule II.

The company plans to import small quantities of ioflupane, in the form of three separate analogues of Cocaine that will be used for the support and manufacture of DaTSCAN (ioflupane 1–123) injection for distribution as a radioactive diagnostic imaging agent utilized in the diagnosis of Parkinson's disease.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic class of controlled substance listed in schedules I and II, which falls under the authority of section 1002(a)(2)(B) of the Act (21 U.S.C. 952(a)(2)(B)) may, in the circumstances set forth in 21 U.S.C. 958(i), file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43, and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODW), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than December 19, 2013.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, 40 FR 43745–46, all applicants for registration to import a basic class of any controlled substance in schedules I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: November 5, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–27661 Filed 11–18–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0046]

Agency Information Collection Activities; Existing Collection, Comments Requested: Friction Ridge Cards: Arrest and Institution; Applicant; Personal Identification; FBI Standard Palm Print; Supplemental Finger and Palm Print

ACTION: 30-day Notice of Information Collection for Reinstatement.

The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division will be submitting the following information collection renewal to the Office of Management and Budget (OMB) for review in

accordance with established review procedures of the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. The information collection was previously published in the **Federal Register** Volume 78, Number 179, Page 56940, on September 16, 2013, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until December 19, 2013. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the OMB, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have a practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Reinstatement, with change, of a previously approved collection for which approval has expired. Reference: OMB control number of 1110–0046.

(2) *The title of the form/collection:* Friction Ridge Cards: Arrest and Institution; Applicant; Personal Identification; FBI Standard Palm Print; Supplemental Finger and Palm Print.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Forms FD–249 (Arrest and Institution), FD–258 (Applicant), and FD–353 (Personal Identification); FD–884 (FBI Standard Palm Print); FD–884a (Supplemental Finger and Palm Print) encompassed under OMB 1110–0046; CJIS Division, FBI, DOJ.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state, federal and tribal law enforcement agencies; civil entities requesting security clearance and background checks. This collection is needed to collect information on individuals requesting background checks, security clearance, or those individuals who have been arrested for or accused of criminal activities. Acceptable data is stored as part of the Integrated Automated Fingerprint Identification System (IAFIS) of the FBI.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 74,793 agencies as respondents at 10 minutes per fingerprint card completed.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 10.1 million annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, U.S. Department of Justice, Two Constitution Square, 145 N Street NE., Washington, DC 20530.

Dated: November 14, 2013.

Jerri Murray,

Department Clearance Officer for PRA, United States Department of Justice.

[FR Doc. 2013–27650 Filed 11–18–13; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Crawler, Locomotive, and Truck Cranes Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Crawler, Locomotive, and Truck Cranes Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

DATES: Submit comments on or before December 19, 2013.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201307-1218-004* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Information Policy and Assessment Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks continued PRA authorization for the Crawler, Locomotive, and Truck Cranes Standard information collection requirements. The Standard requires performance of a monthly inspection on cranes and running ropes and preparation of a certification record for each inspection. A rope that has been idle for a month or more must undergo a thorough inspection and a certification record must be generated. Occupational Safety and Health Act sections 6(b)(7), 29 U.S.C. 655(b)(7), and 8(c), 29 U.S.C. 657(c), authorize this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is

approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0221.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on December 31, 2013. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL also notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 5, 2013, (78 FR 33860).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0221. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Crawler, Locomotive, and Truck Cranes Standard.

OMB Control Number: 1218–0221.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 3,499.

Total Estimated Number of Responses: 80,882.

Total Estimated Annual Burden Hours: 30,452.

Total Estimated Annual Other Costs Burden: $0.

Dated: November 12, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–27587 Filed 11–18–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Claim Adjudication Process for Alleged Presence of Pneumoconiosis

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) titled, ''Claim Adjudication Process for Alleged Presence of Pneumoconiosis'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

DATES: Submit comments on or before December 19, 2013.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201311-1240-001* or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OWCP, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Information Policy and Assessment Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*.

SUPPLEMENTARY INFORMATION: In order to ensure full and meaningful public participation, this notice invites public comments to be submitted under the PRA about proposed updates to the Claim Adjudication Process for Alleged Presence of Pneumoconiosis information collection. Specifically, in a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on June 13, 2013 (78 FR 35575), the DOL proposed both updates to its existing analog film radiograph standards and new parallel standards for digital radiographs applicable to claims filed under the Black Lung Benefits Act, as amended, 30 U.S.C. 901 et seq. If adopted in final, physicians obtaining x-rays of miners on digital radiography systems would submit the radiograph to the DOL in an electronic format. The DOL is incorporating this format change into the existing approved information collection. The DOL believes the NPRM would not impose a new information collection, change the actual data collected, or the estimated information collection (paperwork) burdens imposed on the public; however, the additional format option could be considered a change to the existing information collection, as currently approved under the PRA.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1240–0023.

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of

this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should reference OMB Control Number 1240–0023. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OWCP.

Title of Collection: Claim Adjudication Process for Alleged Presence of Pneumoconiosis.

OMB Control Number: 1240–0023.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 24,000.

Total Estimated Number of Responses: 24,000.

Total Estimated Annual Burden Hours: 5,840.

Total Estimated Annual Other Costs Burden: $0.

Dated: November 13, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–27648 Filed 11–18–13; 8:45 am]

BILLING CODE 4510–CK–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Presence Sensing Device Initiation Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Presence Sensing Device Initiation Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

DATES: Submit comments on or before December 19, 2013.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201308-1218-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Information Policy and Assessment Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to maintain PRA authority for information collections contained in the Presence Sensing Device (PSD) Initiation Standard. Regulations 29 CFR 1910.217(h) sets standards for using a PSD in a mechanical power-press safety system. A PSD (e.g., a photoelectric field or curtain) automatically stops the stroke of a mechanical power press when the device detects an operator entering a danger zone near the press. The PSD initiation standard contains a number of information collection requirements, including: Certifying brakemonitor adjustments, alternatives to photoelectric PSDs, safety system design and installation, and worker training; annual recertification of safety systems; establishing and maintaining the original certification and validation records, as well as the most recent recertification and revalidation records; affixing labels to test rods and to certified and recertified presses; and notifying an OSHA-recognized third-party validation organization when a safety system component fails, the employer modifies the safety system, or a point-of-operation injury occurs. Occupational Safety and Health Act sections 6(b)(7), 29 U.S.C. 655(b)(7), and 8(c), 29 U.S.C. 657(c), authorize this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0143.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on December 31, 2013. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL also notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 9, 2013, (78 FR 21155).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register.** In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0143. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Presence Sensing Device Initiation Standard.

OMB Control Number: 1218–0143.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 1.

Total Estimated Number of Responses: 1.

Total Estimated Annual Burden Hours: 1.

Total Estimated Annual Other Costs Burden: $0.

Dated: November 12, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–27550 Filed 11–18–13; 8:45 am]

BILLING CODE 4510–26–P

OFFICE OF MANAGEMENT AND BUDGET

Information Collection; Request for Public Comments

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) the Office of Management and Budget (OMB) invites the general public and Federal agencies to comment on a revision of an approved information form (SF–SAC) that is used to report audit results, audit findings, and questioned costs as required by the Single Audit Act Amendments of 1996 (31 U.S.C. 7501, *et seq.*) and OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

The first notice of this information collection request, as required by the Paperwork Reduction act, was published in the **Federal Register** on May 9, 2013 [78 FR 27259]. The proposed changes are to revise some existing data elements in the form and add other data elements that would make easier for the Federal agencies to identify the types of audit findings reported in the audits performed under the Single Audit Act. The current Form SF–SAC was designed for audit periods ending in 2011and 2012. The proposed revised Form SF–SAC will replace the current form for audit periods ending 2013, 2014 and 2015. The detail proposed changes along with the proposed format are described on OMB Web site at: *http://www.whitehouse.gov/omb/grants_forms/*

DATES: Submit comments on or before December 19, 2013. Late comments will be considered to the extent practicable.

ADDRESSES: Due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt. We cannot guarantee that mailed comments will be received before the comment closing date.

Electronic mail comments may be submitted to: Gilbert Tran at *hai_m._tran@omb.eop.gov.* Please include ''Form SF–SAC 2013 Comments'' in the subject line and the full body of your comments in the text of the electronic message, not as an attachment. Please include your name, title, organization, postal address, telephone number and email address in the text of the message. Comments may also be submitted via facsimile to 202–395–3952.

Comments may be mailed to Gilbert Tran, Office of Federal Financial Management, Office of Management and Budget, Room 6025, New Executive Office Building, Washington, DC 20503.

All responses will be summarized and included in the request for OMB approval. All comments will also be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Gilbert Tran, Office of Federal Financial Management, Office of Management and Budget, (202) 395–3052. The proposed revisions to the Information Collection Form, Form SF–SAC can be obtained by contacting the Office of Federal Financial Management as indicated above or by download from the OMB Grants Management home page on the Internet at *http://www.whitehouse.gov/omb/grants_forms/*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 0348–0057.

Title: Data Collection Form.

Form No: SF–SAC.

Type of Review: Revision of a currently approved collection.

Respondents: States, local governments, non-profit organizations (Non-Federal entities) and their auditors.

Estimated Number of Respondents: 86,000 (43,000 from auditors and 43,000 from auditees). The respondents' information is collected by the Federal Audit Clearinghouse (maintained by the U.S. Bureau of the Census).

Estimated Time per Respondent: 59 hours for each of 400 large respondents and 17 hours for each of 85,600 small respondents for estimated annual burden hours of 1,478,800.

Estimated Number of Responses per Respondent: 1.

Frequency of Response: Annually.

Needs and Uses: Reports from auditors to auditees and reports from auditees to the Federal government are used by non-Federal entities, pass-through entities and Federal agencies to ensure that Federal awards are expended in accordance with applicable laws and regulations. The Federal Audit Clearinghouse (FAC) (maintained by the U.S. Bureau of the Census) uses the information on the SF–SAC to ensure proper distribution of audit reports to Federal agencies and identify non-Federal entities who have not filed the required reports. The FAC also uses the information on the SF–SAC to create a government-wide database, which contains information on audit results. This database is publicly accessible on the Internet at *http://harvester.census.gov/fac/.* It is used by Federal agencies, pass-through entities, non-Federal entities, auditors, the Government Accountability Office, OMB and the general public for management of and information about Federal awards and the results of audits. Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who respond, including through the use of automated collection techniques or other forms of information technology.

A. Public Comments and Responses

Pursuant to the May 9, 2013, **Federal Register** notice, OMB received comments from 9 commenters relating to the proposed revision to the information collection. Letters came from State governments (including State auditors), the American Institute of Certified Public Accountants, certified public accountants (CPAs), Federal agencies and a grantee. The comments received relating to the information collection and OMB's responses are summarized below.

Comment: Part I, Item 6 Primary Auditor Information. One commenter suggested an auto-fill feature for Part I, Line 6 (auditor information) to ease administrative burden.

Response: No Change to Form. Auditors should enter data each audit year to prevent inclusion of outdated contact information.

Comment: Part I: General Information, Item 6(b)—Audit Firm/Organization EIN. Auditors are required to report their EINs. Commenters support this proposal and suggest that auditor EINs may be the same as auditee EINs in some cases such as statewide audits.

Response: Change made to system edits and Form instructions. The form will allow auditor EINs to match auditee EINs. Additionally, the Federal Audit Clearinghouse (FAC) will provide guidance in the instructions warning against using Social Security Numbers as EINs when the auditor is a sole proprietor. FAC will provide the link to IRS.gov used to obtain EINs.

Comment: Part I, Item 6(b) Some commenters suggested that auditors report DUNS numbers on the Form in addition to their EINs.

Response: No Change to Form. OMB will consider this on a future version of the Form.

Comment: Part I, Item 7, Secondary Auditor information. Some commenters noted the Form does not indicate whether Secondary Auditor information is required or optional. They suggested that this information be required on the Form.

Response: Change to Form and Instructions. OMB revised the Form's current question and instructions to clarify that secondary auditor information is required.

Comments: Part II: Financial Statements—Commenters suggested deletion of Part II Items Questions 3,4 and 5 relating to Financial Statements relating to a significant deficiency, a material weakness and material noncompliance on a major program as these information are added to the new Part III of the Form.

Response: No change to Form. Part II, Questions 3, 4, and 5 will remain on the form, as they are not duplicated elsewhere on the Form. However, Part III, Questions 4, 5 and 6 of the 2010 form will be removed as proposed.

Comment: Part III: Federal Programs, Item 2, Dollar threshold to distinguish between Type A and Type B programs. Commenters suggested a development of a calculation to validate the dollar amount entered for Part III, Item 2—the dollar threshold to distinguish Type A and Type B programs.

Response: No Change to Form. The Form edits cannot be programmed to accurately determine the threshold in every case, especially where loan or loan guarantees exist. In addition, auditors are required to determine the threshold at the start of the audit, not when the audit is completed and this Form is filled out. However, OMB will continue consideration of development of a threshold validation.

Comment: Part III: Federal Programs, Item 5, Federal agencies with prior year or current year direct findings. Commenters suggested because the addition of information, Item 5 should be limited to prior year findings only.

Comment: Other commenters suggested that the Form be amended to clarify if agencies are receiving the report based on current findings, prior findings, or both current and prior findings.

Response: No change to Form. The question in Item 5 is to determine which agencies should review the audit. Non-conformity of CFDA numbers reported on the Form requires the question to remain on the Form. On the next version of the Form, OMB will consider adding a separate question to distinguish if prior year, current year or both prior and current year findings necessitate a review.

Comment: Part III: Federal Programs, Item 6 Federal Awards Expended During the Fiscal Year. Commenters noted that it would be more useful to Federal agencies that issue direct awards if the Form gathered information related to the source of pass-through funds.

Response: No change to Form. OMB agreed that this information can be useful. However, this change would require significant programming change to the proposed form. We will consider a requirement to collect pass-through information in a future iteration of the form.

Comments: Part III: Federal Programs, Item 6(f)—Loan/Loan Guarantee. Clarification is needed on how to treat awards with loan and non-loan components.C

Response: Change made to instructions. Guidance is added to the ''instructions'' section to indicate respondents are to treat CFDA numbers with both loan and non-loan components as they treat R&D programs. Specifically, respondents are to place the Loan/Loan Guarantee component on one line, and the non Loan/Loan Guarantee portion on a separate line.

Comment: Part III: Federal Programs, Item 6 (j)—Commenters noted that if a single audit report has a modified opinion due to a scope limitation, there may not be any finding to report. However, the form requires it to have a finding when showing a modified opinion on major programs.

Response: No change to Form. When an opinion on a major program ''modified'', a finding is required in accordance with A–133 § ____.510(a)(5).

Comment: Part III: Federal Programs, Item 6(k)- ''Number of Findings'' Commenters suggested a change in the terminology of ''Number of Findings'' to ''Number of Significant Findings.'' This wording would correlate with the instances where findings are required by A–133 § ____.510(a).

Response: Change made to Form and Instructions. OMB agreed in part and changed the wording to ''Number of Audit Findings'' to improve clarity. Including only ''significant'' findings may confuse auditors.

Comment: Part III: Federal Programs, Item 7 Federal Award Findings. Commenters suggested that listing each finding for each Federal award affected by a finding will create redundancy in the report. The same level of specificity can be achieved by identifying findings and questioned costs by award as is done currently, and requiring the new Item 7 to list each finding along with the appropriate Types of Compliance Requirements and Deficiencies. The additional information collected about each finding from the auditor's report adds burden to the states.

Response: No change to Form. OMB has determined the level of detail Federal agencies require in order to identify the problem and high risk areas in a specific audit report necessitates the increased finding detail in the proposed Form changes. The FAC will work with auditees to provide additional technical guidance to reduce the burden of data entry.

Comments: Part III: Federal Programs, Item 7(d)—Standard Audit Finding Reference Numbers. Some states already have specific finding reference numbering systems. The timing of this proposal will require 2013 audits to be revised and internal systems to be revised causing significant burden. The States request delaying the implementation of a new set of standard audit finding reference numbers.

Response: Change made to instructions. No change to Form. This requirement will be postponed to apply to 2014 audit submissions. For 2013 audit submissions, the Form will request audit finding reference numbers follow the suggested standard, but will not require it.

Comments: Part III: Federal Programs, Item 7(e)—Type(s) of Compliance

Requirement(s) Commenters suggested that fields be added in Part III to include the name of pass-through entity and the identifying number assigned to the pass-through entity if applicable as required by OMB Circular A–133.

Response: Change made to Instructions. No change to Form. OMB will consider this information for inclusion on the next version of the Form SF–SAC. For the 2013 Form SF–SAC, FAC will advise respondents pass-through information can be entered in the data field for 6(c), the ''Federal Program Name'' field.

Comment: Part III: Federal Programs, Item 7(e), Type(s) of Compliance Requirement(s). Commenters noted that one finding could contain multiple compliance requirements. This would make analyzing the data more challenging. They noted that it may be helpful to have, for each compliance requirement, a separate row for each finding number and CFDA combination.

Response: No Change to Form. Capturing the compliance requirements separately for each audit finding is a reasonable request, but would require substantial programming and redesign of the proposed form. We will consider for future version of the Form.

Comment: Part III: Federal Programs, Items 7(f),(g),(h),(i),(j)—Type(s) of Finding(s)—For each audit finding listed on Part III, Item 7, the auditor must mark a valid combination of five Type(s) of Finding(s): Modified Opinion, Other Noncompliance, Material Weakness, Significant Deficiency, or Other. Commenters suggested that another combination may be added to matrix of valid combinations. There are instances of material noncompliance may be identified that do not rise to the level of modifying an opinion on a major program. Commenters noted that it is confusing to include ''Modified Opinion'' as a type of deficiency at all. They believe it would be more appropriate for this column to be displayed separately, similar to the column for questioned costs. They suggest separating the ''Other Noncompliance'' and ''Material Weakness'' columns to indicate that they are related to the opinion on compliance, and not on controls over compliance.

Response: Change made to Form and Instructions. Compliance Findings and Internal Control Findings will be differentiated. ''Other Noncompliance'' will change to ''Other Matters''.'' Other'' will change to ''Other Findings''. Additional instructions are provided to clarify the reporting combinations.

Comments: Part III: Federal Programs, Item 7 (k), Questioned Costs—For each audit finding, the auditor will report any Questioned Costs related to that finding. The auditor must only mark ''Y'' or ''N'' to indicate the existence of questioned costs. Some commenters want to improve accountability by also capturing the amount of questioned costs. Other commenters note that the amount is sometimes difficult to determine.

Response: No Change to Form. It was noted that the precision and accuracy of the questioned costs amount would be questionable and may be misinterpreted. OMB will revisit this topic for inclusion of questioned costs on a future version of the Form.

Comments: General—Auditors and auditees will be required to certify that their reporting package does not contain Personally Identifiable Information (PII). Commenters noted inconsistent definitions of PII defined in the Form and the proposed Grant Reform guidance. The commenters also suggested that more guidance is needed to determine how to address specific instances where the PII policy is not clear.

Response: No change to Form. OMB will table this requirement and continue development of a PII policy for the implementation in a later year.

Comments: General- PDFs of audit report submissions must be unlocked, unencrypted, and at least 85% of the pages must be text-searchable. Commenters expressed concern the electronic signatures in audits could possibly be misused as well as expose independent auditor's opinions to potential alteration in audit reports. There are specific business risk policies in place at CPA firms that would not permit and audit report to be issued in an unlocked format. Therefore, some commenters suggested submission of two documents.

Response: No change to Form. OMB believes the proposed PDF requirements allow auditors to submit audits with non-searchable opinions. Since 85% of the pages must be text searchable, allowance for a few scanned pages is given. However, OMB will consult AICPA and audit firms to improve implementation through improved outreach and instructions.

Comment: General- Some commenters recommended that the costs of the single audit be recorded on the Form.

Response: No change to Form. OMB will consider this on the next version of the Form.

Comment: General- One commenter requested OMB remove the requirement that the auditor is required to complete *Part II (financial Statements)* and *Part III (Federal Programs).* Other commenters suggested that the auditee should be required to upload the SEFA information into Part III, item 6—*Federal Awards Expended During the Fiscal Year.* This would allow the auditee to take ownership in the submission, and enable the submission to be completed earlier. Other commenters questions whether Items 2 and 3 in Part III should be excluded from the certification statement, as they are not transferred from the auditor's report. Additionally, new item 6(k) and fields in Item 7 may be other exceptions, as they are not directly taken from the auditor's report.

Response: Change made to instructions. No change to Form. The Form's auditor certification states the data in Part II and Part III was entered by the auditor. OMB does not believe the responsibility for entering data and the certification statements should change at this time. Additional guidance will be added in the Form Instructions.

Comment: General- One commenter expressed concern that password requirements should be improved to make them more secure.

Response: No change to Form. Currently, the requirements for passwords meet Federal standards. In the new data collection application, each user will have individual passwords to access the application. Passwords will not be shared between auditors and auditees, or between auditor employees. Individuals and audit firms can implement their own password requirements in addition to Federal requirements.

Comment: General- Commenters recommended that the full single audit report be made available to pass-through entities. This would significantly decrease administrative burden to sub-recipients, who must submit duplicative information to the Clearinghouse and to pass-through entities.

Response: No change to Form. The proposed revisions to the Grant Management Circular, published in February 2013, proposes making audits available publicly. When the audits are publically available, pass-through organizations, especially states, will have access to audits through the FAC Web site. OMB will continue development of a policy for the implementation.

Comment: General- Commenters ask which information the FAC collects is the official record of the Single Audit: (1) The audit report uploaded to the Clearinghouse Web site, or (2) the audit report given to the auditee.

Response: No change to Form. Section §____.320 of the Circular A–133 states the submission of the data collection form and audit package are required to comply with the provisions of the Circular. The submission of these documents is the official record of the single audit for the Federal government.

Comment: General—In order to comply with guidance provided in Section 703 of the OMB Proposed Uniform Guidance, CIGIE/and the NSACs request that OMB consider adding an option for ''Audit under Threshold''.

Response: No change to Form. OMB will consider alternate submission options for audits with expenditures of Federal awards below the minimum threshold in the future when the proposed uniform guidance is finalized and effective.

Comment: General—Commenters requested a question be added: ''Was a Management Letter Issued?'' Under new GAS and AICPA standards, auditors are no longer required to include a statement regarding management letters in the report. Agency officials will not be notified when a management letter has been issued.

Response: No Change to Form. OMB will consider adding this information on a future iteration of the Form.

Comment: General—Some commenters asked for a new requirement for the text of each finding and auditee response be added to the data collection form.

Response: No Change to Form. OMB will consider adding this information on a future iteration of the Form.

Comment: General—Some commenters questioned why the estimated hours to complete the SF–SAC have not changed since 2008, particularly considering the changes to expand the amount of data collected on the Form.

Response: No Change to Form. Although the Form has been revised to add a few additional information inputs, it has also been revised to streamline the reporting of data inputs including the upload of the Form electronically. We believe that on the average hours to complete the form remain leveled.

Comment: General—Commenters requested training materials such as how-to videos, articles, and other means to help auditors and auditees prepare and avoid last minute submission problems with the new Form.

Response: No change to Form. The FAC will make additional efforts to disseminate information on upcoming changes before the official roll-out of the Form.

Comment: General—Some commenters suggested that for audits that are currently completed, respondents be permitted to submit the 2013 audits on the 2010—2012 Form SF–SAC. They note that many audits are already done for 2013, and changing requirements will increase administrative cost and respondent burden.

Response: No change to Form. For consistency of reporting, all 2013 audits should be reported using the 2013 form. We expect the 2013 Form to be available in October. OMB will extend a waiver for due dates falling before the Form is approved and available.

Comment: General—Commenters advised that the FAC should prepare for numerous submissions in a short timeframe. When the 2013 Form is approved and released, there will be numerous submissions occurring simultaneously.

Response: No change to Form. The FAC is working to ensure a smooth transition to the new submission system.

Comment: General- Commenters recommends rigorous testing of the internet submission system to ensure that it is working properly. AICPA comments that they would be willing to assist the Clearinghouse with this endeavor.

Response: No change to Form. The FAC staff is continuously improving and testing the usability and functionality of the new Form and the new system.

Comment: General- Commenters requested that due dates for reporting packages be clarified when due dates fall on holidays or weekends. Additionally, AICPA notes that questions arise as to the time zone that is used to identify when the audit is due. AICPA recommends that FAC and OMB address these questions in the Frequently Asked Questions section or in another readily available manner.

Response: No change to Form. OMB agreed to allow extensions until the next business day for nine-month due dates that fall on non-business days such as weekends and holidays. FAC will make these adjustments automatically. If a submission in a different time zone was on time in the auditee's time zone, but marked as late by the FAC system in the Eastern time zone, the FAC is allowed to make time-zone adjustments to submissions by request.

Norman S. Dong,

Deputy Controller.

[FR Doc. 2013–27585 Filed 11–18–13; 8:45 am]

BILLING CODE P

NATIONAL COUNCIL ON DISABILITY

Notice of Sunshine Act Meetings

TIME AND DATES: The Members of the National Council on Disability (NCD) will hold a quarterly meeting on Wednesday, December 4, 9:00 a.m.–5:15 p.m. (GMT), and Thursday, December 5, 2013, 9:00 a.m.–12:15 p.m. (GMT).

PLACE: The meeting will occur in Topeka, Kansas at the Kansas State House in the Old Supreme Court Chambers, located at SW 10th and SW Jackson, Topeka, KS 66612. The quarterly meeting is available to the public to attend in-person or by phone. Those attending in person should be prepared to process through Kansas State House security upon entrance. Those interested in joining the meeting by phone in a listen-only capacity (with the exception of the public comment period) may access the proceedings by phone by using the following call-in number: 1–888–417–8533; Passcode/ Conference ID: 3860992. If asked, the call host's name is Jeff Rosen.

MATTERS TO BE CONSIDERED: The Council will receive reports from its standing committees; and receive panel presentations from policy experts on the topics of living with a disability in rural America, Kansas legislation on the rights of parents with disabilities, the Kansas Employment First initiative, and finally, on the topic of KanCare implementation. The Council will also receive public comment exclusively from Kansans on Day 1 and from all other interested parties on Day 2.

AGENDA: The times provided below are approximations for when each agenda item is anticipated to be discussed (all times CMT):

Wednesday, December 3:

9:00–9:30 a.m.—Call to Order and Welcome

9:30–10:00 a.m.—Committee Reports (Audit and Finance; Governance; Policy Development and Program Evaluation)

10:00–11:30 a.m.—Policy Panel and Discussion—Panel 1: Living with a Disability in Rural America

11:30 a.m.–1:00 p.m.—Break for Lunch

1:00–2:30 p.m.—Policy Panel and Discussion—Panel 2: Kansas Legislation for Parents with Disabilities

2:30–4:00 p.m.—Policy Panel and Discussion—Panel 3: Kansas Employment First

4:00–4:15 p.m.—Break

4:15–5:15 p.m.—Kansas Public Comments (phone and in-person; all topics; this public comment period is intended for Kansans

only; all those who plan to make public comment are asked to please register their intent to comment in advance. Please see details below. A general public comment is open to all other interested parties on Day 2 of the Council meeting)
5:15 p.m.—Adjourn
Thursday, December 5:
9:00–9:30 a.m.—Call to Order and Welcome
9:30–11:00 a.m.—Policy Panel and Discussion—Panel 4: KanCare Implementation
11:00–11:15 a.m.—Break
11:15–11:45 a.m.—Public Comment (phone and in-person; all topics)
11:45 a.m.–12:15 p.m.—Council Business continued
12:15 p.m.–Council Meeting Adjourns

PUBLIC COMMENT REGISTRATION: To better facilitate NCD's public comment periods, any individual interested in providing public comment will be asked to register their intent to provide comment in advance by sending an email to *PublicComment@ncd.gov* with the subject line ''Public Comment, Topeka, KS'' with your name, organization, state, and topic of comment included in the body of your email. Full-length written public comments may also be sent to that email address. All emails to register for public comment at the October quarterly meeting must be received by Monday, December 2, 2013. Priority will be given on both days to those individuals who are in-person to provide their comments. Those commenters on the phone will be called on according to the list of those registered via email. Due to time constraints, NCD asks all commenters to limit their comments to three minutes.

CONTACT PERSON FOR MORE INFORMATION: Anne Sommers, NCD, 1331 F Street NW., Suite 850, Washington, DC 20004; 202–272–2004 (V), 202–272–2074 (TTY).

ACCOMMODATIONS: A CART streamtext link has been arranged for each day of the board meeting. For Wednesday, beginning at 9:00 a.m., CMT, the web link to access CART is *http://www.streamtext.net/text.aspx?event=120413NCD1000am.* For Thursday, beginning at 9:00 a.m., CMT, the web link to access CART is *http://www.streamtext.net/text.aspx?event=120513NCD1000am.* Those who plan to attend the meeting in-person and require accommodations should notify NCD as soon as possible to allow time to make arrangements.

Please note: To help reduce exposure to fragrances for those with multiple chemical sensitivities, NCD requests that all those attending the meeting in person please refrain from wearing scented personal care products such as perfumes, hairsprays, colognes, and deodorants.

Dated: November 15, 2013.

Rebecca Cokley,

Executive Director.

[FR Doc. 2013–27776 Filed 11–15–13; 11:15 am]

BILLING CODE 6820–MA–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that twelve meetings of the Humanities Panel will be held during December, 2013 as follows. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended).

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: The meetings will be held at the Old Post Office Building, 1100 Pennsylvania Ave. NW., Washington, DC 20506, unless otherwise indicated. See **SUPPLEMENTARY INFORMATION** section for meeting room numbers.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 1100 Pennsylvania Ave. NW., Room 529, Washington, DC 20506, or call (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the National Endowment for the Humanities' TDD terminal at (202) 606–8282.

SUPPLEMENTARY INFORMATION:

Meetings

1. DATE: December 03, 2013.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 415.
This meeting will discuss applications on the subjects of Music and Performing Arts for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

2. DATE: December 04, 2013.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 402.
This meeting will discuss applications on the subject of Scholarly Communications for the Digital Humanities Start Up Grants grant program, submitted to the Office of Digital Humanities.

3. DATE: December 05, 2013.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 402.
This meeting will discuss applications on the subject of Research for the Digital Humanities Start Up Grants grant program, submitted to the Office of Digital Humanities.

4. DATE: December 05, 2013.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 415.
This meeting will discuss applications on the subject of American Studies for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

5. DATE: December 06, 2013.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 402.
This meeting will discuss applications on the subject of Research for the Digital Humanities Start Up Grants grant program, submitted to the Office of Digital Humanities.

6. DATE: December 09, 2013.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 402.
This meeting will discuss applications on the subjects of Archives and Collections for the Digital Humanities Start Up Grants grant program, submitted to the Office of Digital Humanities.

7. DATE: December 10, 2013.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 415.
This meeting will discuss applications on the subject of Historical Geography for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

8. DATE: December 10, 2013.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 402.
This meeting will discuss applications on the subjects of Geospatial and Visualization for the Digital Humanities Start Up Grants grant program, submitted to the Office of Digital Humanities.

9. DATE: December 11, 2013.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 402.
This meeting will discuss applications on the subject of New Media for the Digital Humanities Start Up Grants grant program, submitted to the Office of Digital Humanities.

10. DATE: December 12, 2013.
TIME: 8:30 a.m. to 5:00 p.m.
ROOM: 402.
This meeting will discuss applications on the subject of Education

for the Digital Humanities Start Up Grants grant program, submitted to the Office of Digital Humanities.

11. DATE: December 13, 2013.

TIME: 8:30 a.m. to 5:00 p.m.

ROOM: 402.

This meeting will discuss applications on the subjects of Archives and Collections for the Digital Humanities Start Up Grants grant program, submitted to the Office of Digital Humanities.

12. DATE: December 16, 2013.

TIME: 8:30 a.m. to 5:00 p.m.

ROOM: 402.

This meeting will discuss applications on the subject of Public Programs for the Digital Humanities Start Up Grants grant program, submitted to the Office of Digital Humanities.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5 U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Dated: November 12, 2013.

Lisette Voyatzis,

Committee Management Officer.

[FR Doc. 2013–27572 Filed 11–18–13; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Notice To Reinstate a Previously Approved Information Collection; Comment Request

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Notice to reinstate a previously approved information collection for review and comment.

SUMMARY: In compliance with the Paperwork Reduction Act, this notice announces the NTSB is submitting an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for renewal of a previously approved information collection, NTSB Form 6120.1. This ICR is the second notice, as required by OMB regulations concerning approvals of information collections. This notice again describes the nature of the information collection and its expected burden; in addition, this notice describes some changes and additions the NTSB has made to Form 6120.1 after receiving feedback from the general aviation community.

DATES: Submit written comments regarding this proposed collection of information by December 19, 2013.

ADDRESSES: Interested members of the public may submit written comments on the collection of information to the OMB Desk Officer for the NTSB at Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–5806 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments to the National Transportation Safety Board, ATTN: Office of Research and Engineering, 490 L'Enfant Plaza East SW., Washington, DC 20594.

FOR FURTHER INFORMATION CONTACT: Loren Groff, NTSB Office of Research and Engineering, at (202) 314–6517.

SUPPLEMENTARY INFORMATION: The NTSB announces the proposed extension of a public information collection and seeks public comment on the collection in accordance with the Paperwork Reduction Act. The NTSB's collection of information on Form 6120.1 is necessary to fulfill the NTSB's statutory mandate to investigate transportation accidents, because the form requests information concerning aviation accidents and incidents. This Notice informs the public that it may submit comments concerning the proposed use of this form to the OMB Desk Officer who oversees NTSB information collections. This renewal request is not associated with a rulemaking activity.

Paperwork Reduction Act Requirement

In accordance with OMB regulations that require this Notice for proposed ICRs, the NTSB herein notifies the public that it may submit comments on this proposed renewal of information collection. Title 5 CFR 1320.5(a)(1)(iv) requires an agency to publish in the **Federal Register** a notice soliciting comments regarding the proposed information collection. The notice must describe the information collection, the necessity for the collection, and the estimated burden the submission of information will impose on respondents. This notice must advise the public that it may submit comments directly to OMB. In accordance with these regulations, the NTSB now advises the public, via this notice, that it may submit comments directly to OMB concerning the NTSB's renewal of the information collected on NTSB Form 6120.1.

Prior to soliciting comments directed to OMB, the applicable regulations require an agency to first publish in the **Federal Register** a notice describing the information collection, and requesting the public submit comments directly to the agency. 5 CFR 1320.8(d). The NTSB published such notice on May 7, 2013. 78 FR 26659.

Public Input Regarding NTSB Form 6120.1

The NTSB did not receive any written comments concerning the proposed renewal of the information collection. However, the NTSB held what it has termed a ''listening session'' to obtain feedback from the general aviation (GA) community concerning NTSB investigations. The majority of NTSB aviation investigations concern GA accidents or incidents, and with recent advances in technology, the NTSB seeks to ensure it is collecting the most accurate and important information and data to ensure appropriate findings of probable cause.

In furtherance of this goal, the NTSB met with a group of 28 people who participated in the NTSB's GA listening session on April 3, 2013. These owners, operators, and other members of the GA community (such as safety researchers, educators, owner and builder associations, and manufacturers) provided input that prompted the NTSB to include a question on the form asking what ''additional equipment'' the aircraft contained, within the aircraft information category. In addition, the NTSB considered this feedback and now proposes updates to the form to include additional options for answers to some of the questions on the form. These changes are explained more fully below.

Description of NTSB Form 6120.1

The Pilot/Operator Aircraft Accident/Incident Report Form is used in determining the facts, conditions, and circumstances for aircraft accident prevention activities and for statistical purposes. In furtherance of its goal to ensure the form is updated and includes information that will assist the NTSB in investigating accidents and incidents, the NTSB recently determined it should replace some questions and reorganize the form. These changes will ensure the form solicits information concerning the latest technologies about which the NTSB will need information. In addition, some questions on the form will now solicit more specific information.

The majority of the form's contents remains unchanged; the form is still divided into 17 categories, which are titled as follows: Basic information;

aircraft information; owner/operator information; airport information (to be completed if accident or incident occurred on approach, takeoff, or within 3 miles of an airport); ''flight crew member 1'' information; ''flight crew member 2'' information [1]; additional flight crew members; passengers/other personnel; flight itinerary information; weather information at the accident/incident site; damage to aircraft and other property [2]; narrative history of flight; recommendation (concerning how the accident or incident may have been prevented); mechanical malfunction/failure; fuel and services information; evacuation of aircraft; and information concerning any other aircraft involved in the accident or incident (in the event of a collision).

A. Basic Information

The basic information category remains largely unchanged; as described in the NTSB's previous notice concerning this ICR, the category requests information concerning the location and date and time of the accident or incident, the phase of operation during which the accident or incident occurred, and whether the occurrence was a collision with other aircraft. The question concerning the altitude if the event was an in-flight occurrence is no longer on the form; instead, the basic information section includes fields in which the respondent can enter in decimal degrees ''minutes:seconds'' the latitude and longitude of the accident or incident.

B. Aircraft Information

1. Prior Requests

The aircraft information category continues to request the following information concerning the aircraft: manufacturer, model, serial number, registration number, weight and center of gravity of the aircraft, whether the aircraft was amateur-built, category of aircraft, type of airworthiness certificate, number of seats, type of landing gear, type of maintenance program, type and date of last inspection, total time on airframe, type of fire extinguishing system, type of reciprocating fuel system, and type of propeller. The aircraft information category also continues to request ''yes'' or ''no'' answers to the following: Whether the aircraft had a stall warning system installed; whether the emergency locator transmitter (ELT) was activated, and additional information about the ELT, such as whether it aided in locating the accident/incident, its manufacturer, model/series, serial number, and battery type. This section of the form also still requests detailed information concerning the engine(s) on the aircraft, such as the engine manufacturer, model/series, serial number, date of manufacture, type of power measurement (horsepower or pounds of thrust), total time on engine, time since last inspection, and time since overhaul.

2. New Requests

Also within the aircraft information section, the new version of the form will now request information concerning the following: The year of manufacture of the aircraft and if amateur built, the make of the kit/plans used or whether the aircraft was built according to ''original design.'' In addition, the form now requests a selection from the following options: ''IFR [instrument flight rules] equipped and certified,'' ''commercial space flight,'' or ''unmanned aircraft.'' The aircraft information category also now includes space for two propellers, rather than one; if applicable, respondents will complete information indicating the manufacturer and model of both propellers. For the question concerning the ELT on the aircraft, the new form includes additional questions: The TSO Number, from a selection of the following choices: C91 (121.5 MHz); C91a (121.5 MHz); or C126 (406 MHz). In this regard, the form also solicits answers to whether the ELT was still mounted in the aircraft, whether it was still connected to antenna, and, if it was not activated, the reason for its damage (impact damage, fire damage, battery expired/damaged, or unknown).

Finally, the aircraft information section also now includes a selection from the following list of equipment, and asks respondents to check any of the following items that were on the aircraft: ADS–B, airframe parachute, angle of attack indicator, autopilot, data recorder, electronic flight bag or handheld device, electronic malfunction display, electronic primary flight display, handheld GPS, heads up display, onboard weather, satellite tracking device, stall warning system, video recording device, and an option stating ''other, specify.''

C. Owner/Operator Information

The owner/operator section of NTSB Form 6120.1 also remains largely unchanged, but is organized in a way that is more easily understandable. The section continues to request specific information concerning the status of the aircraft, such as the names and contact information for both the owner and the operator of the aircraft, the Federal Aviation Regulation (FAR) under which the flight was conducted, whether the flight was a revenue sightseeing flight or air medical flight,[3] the purpose of the flight, the type of revenue operation, type of cargo operation (if applicable), and the type of commercial operating certificate the operator holds. These questions now contain additional options, such as FAR 415, FAR 431, FAR 435, and FAR 437 in the question asking the ''regulation'' under which the flight was conducted; these new FAR parts will assist the NTSB in identifying flights that were conducted as part of a commercial space launch. It also contains updated options concerning the purpose of the flight, such as banner tow, external load, firefighting, glider tow, and skydiving. The NTSB believes including these options to the questions will ensure it obtains the most accurate responses to the form.

Regarding airport information, the form continues to request the airport name and identifier, the aircraft's proximity to the airport (as off or on the airport or airstrip), distance and direction from airport, and the elevation of the airport. The form includes boxes for respondents to check describing the approach segment, type of IFR approach, type of visual flight rules (VFR) approach, runway information, and type and condition of runway or landing surface. These questions remain unchanged. However, within the airport departure segment question, the form will now offer the following options in addition to the existing ones: ''taxi,'' ''takeoff,'' ''initial climb,'' ''VFR departure,'' ''IFR departure/clearance,'' and ''unknown.'' The NTSB believes these additional options will ensure the most accurate responses.

D. Crew Information

1. Prior Requests

Concerning the crew aboard the aircraft, the form continues to request information on both pilots, such as names and contact information, dates of birth, certificate numbers, degree of injury, seats occupied, whether the

[1] Previously, the titles of the sections for pilot information were entitled, ''Pilot 'A' Information'' and ''Pilot 'B' Information,'' respectively.

[2] Previously, the questions concerning the degree of damage the aircraft sustained, whether it was on fire, whether it exploded, and a description of the damage were all in distinct categories. In the proposed new form, the NTSB will seek information concerning aircraft damage, fire, and explosion in a general category entitled ''damage to aircraft and other property.''

[3] The instructions section of the form, which precedes all questions, now includes brief definitions of ''revenue sightseeing flight'' and ''air medical flight.''

pilots used seat belts and shoulder harnesses, the types of pilot and medical certificates held, the principal occupation, and date of last aviation medical examination. With regard to each pilot's medical information, the form also requests a listing of any medical certificate limitations and waivers. The form also requests information concerning each pilot's flight reviews, such as the date of the last flight review and the type of aircraft used on the last flight review; further, the form solicits information concerning each pilot's ratings, such as aircraft ratings, instrument ratings, instructor ratings, and type ratings, as well as student endorsements. Finally, the form includes a table requesting the amount of flight time (categorized into the following sections: Total flight time, pilot-in-command time, instructor time, time in this make/model, and time during the last 90 days, 30 days, and 24 hours) concerning: all aircraft, the make and model of the aircraft in which the pilot accrued the flight time, airplane single- and multi-engine, night, instrument, rotorcraft, glider, and lighter than air. The only addition to the sections soliciting information on flight crew member 1 and flight crew member 2 is a ''yes'' or ''no'' answer to the statement ''Flight crew member 1 was the pilot flying'' and ''Flight crew member 2 was the pilot flying,'' respectively.

2. New Requests and Other Changes

In a category concerning additional crewmembers, the form now includes two spaces [4] for listing the following information concerning different crewmembers: Crewmembers' names and contact information, degree of injury, seat occupied, type of pilot certificates, whether the crewmember was type-rated for the aircraft involved in the accident or incident, and the total flight time at the time of the accident or incident. With regard to passengers, the form only requests the name, city, state, and zip code for each passenger, as well as the seat number, whether the passenger is crew, non-revenue, revenue, non-occupant, or Federal Aviation Administration (FAA). Previously, the form included eight spaces for listing eight passengers' information. The new form includes four spaces for passenger information, as the NTSB determined four spaces are sufficient.

In both the flight crew member 1 and 2 sections, the additional flight crewmember section, and in the passengers/other personnel section, the NTSB has reorganized them and included additional options concerning its questions about restraints. Each of these questions now include the following table:

Restraint type		Inflatable restraints
Available	Used	
○ None	○ None	○ Not installed.
○ Lap Only	○ Lap Only	○ Installed.
○ 3-point	○ 3-point	○ Not deployed.
○ 4-point	○ 4-point	○ Deployed.
○ 5-point	○ 5-point	○ Unknown.
○ Unknown	○ Unknown	

In addition, the passenger(s)/other personnel section, which contains four spaces, now will also include a section of the restraint table requesting whether a child under 5 years old was on the aircraft, and whether the restraint was: ''child restraint,'' ''lap-held,'' or ''unknown.''

E. Flight Itinerary Information

As described in the NTSB's previous notice concerning this form, the NTSB also requests information concerning the flight itinerary, such as the last departure point and time of departure, and the destination. By way of check-the-box responses, this category also requests information concerning the type of flight plan filed, type of air traffic control clearance or service, airspace where the accident or incident occurred, and a description of the aircraft load. This section does not contain any proposed changes.

F. Weather Information at the Accident/Incident Site

The form requests information concerning weather conditions at the time of the accident. These requests within the weather category continue to ask for information concerning the weather observation facility; the source of weather information; the method of briefing concerning weather as well as the type and completeness of the briefing; the light condition; characterization of visibility; sky and lowest cloud condition; the ceiling and its height; the restriction on visibility; the wind direction, speed, and gusts; the type and severity of turbulence; and a list of Notices to Airman and other similar advisories in effect at the time of the flight. In addition, the form requests the temperature, altimeter setting, density altitude, and dew point. Finally, this category of the form requests information concerning actual and forecasted conditions concerning icing, as well as the type and intensity of any precipitation. This category only contains the addition of one option in the ''source of pilot weather information section'': Respondents may now select ''on-board weather'' as their means of receiving weather information.

G. Narrative History of Flight

As stated above, the form concludes with areas for a narrative history of the flight and the events or actions the respondent believes may have prevented the accident or incident. The proposed new form contains these categories in a new location, but the text of the questions are the same.

H. Other Information

The form seeks information concerning whether the aircraft sustained a mechanical malfunction or failure. The questions within this category, as well as the categories requesting fuel and services information, data concerning the evacuation of the aircraft (if applicable), and information concerning the other aircraft (if a collision occurred) remain the same as described in the NTSB's earlier notice concerning this information collection.

I. Certification Statement

Finally, as described in the NTSB's previous notice regarding this

[4] Previously, the form included spaces for three pilots. The NTSB determined only two spaces are necessary.

information collection, the form also includes a certification statement for the respondent to sign, attesting that the information provided on the form is complete and accurate to the best of his or her knowledge. The proposed new version of the form will allow respondents to electronically sign the form by checking a box.

Use of Information on NTSB Form 6120.1

As described in its May 7, 2013 notice, the NTSB generally uses the information provided on Form 6120.1 to determine the facts, conditions, and circumstances for aircraft accident prevention activities and for statistical purposes. The NTSB typically receives several notifications for each accident or incident, but only requests completion of Form 6120.1 once the NTSB has determined it will pursue an investigation into the event. The NTSB utilizes a ''party process,'' as described in 49 CFR part 831, for its investigations. This process involves the NTSB's invitation to outside entities to assist with an investigation as a ''party.'' The NTSB extends party status to those organizations that can provide the necessary technical assistance to the investigation. The investigator-in-charge (IIC), for example, often confers party status to the operator, aircraft, systems, and powerplant manufacturers, and labor organizations involved because of the accident circumstances. Everyone involved in an NTSB investigation, including the parties, depend on accurate information contained in NTSB Form 6120.1 while conducting the investigation and determining which areas warrant focus and attention. Overall, the NTSB considers Form 6120.1 to be critical to its statutory function of investigation accidents and incidents, and subsequently issuing safety recommendations in an effort to prevent future accidents and incidents.

The NTSB has carefully considered whether this collection of information on Form 6120.1 is duplicative of any other agency's collections of information. The NTSB is unaware of any form the FAA disseminates that solicits the same information Form 6120.1 requires. However, the NTSB notes some operators may choose to provide a voluntary report to the National Aeronautics and Space Administration (NASA) in accordance with the Aviation Safety Reporting System (ASRS). NASA will not accept ASRS reports concerning aircraft *accidents;* however, it is possible that an operator could report an incident to the NTSB, as defined in 49 CFR 830.2, and contemporaneously submit an ASRP report to NASA.

The NTSB notes completion of NTSB Form 6120.1 is not voluntary, but is required by 49 CFR 830.15(a). The NTSB, in general, will not accept partially completed forms; NTSB investigators will exercise their discretion in requesting completion of a copy of Form 6120.1 a respondent submits that is partially completed. In many cases, the NTSB recognizes not all fields will apply to each event; therefore, the NTSB will not require completion of inapplicable fields.

Currently, the NTSB accepts paper copies of Form 6120.1 sent via postal mail or facsimile, as well as electronic copies of Form 6120.1 that respondents submit via electronic mail. For electronically submitted copies, the NTSB notes its public Web site contains a fill-able version of Form 6120.1. As described above, the updated version of the form will include a box the respondent can check to electronically sign the form; therefore, respondents need not scan a copy of the form to send it via electronic mail, because respondents now have the option of completing the form by typing answers within the electronic version and sending it via electronic mail.

The NTSB has carefully reviewed the form to ensure that it has used plain, coherent, and unambiguous terminology in its request for information. The NTSB estimates that respondents will spend approximately 60 minutes in completing the form. The NTSB estimates that approximately 1,800 respondents per year will complete the form, but notes that this number may vary, given the unpredictable nature of the frequency of aviation accidents and incidents.

Deborah A.P. Hersman,

Chairman.

[FR Doc. 2013–27654 Filed 11–18–13; 8:45 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 5200025; NRC–2008–0252]

Vogtle Unit 3 Combined License

AGENCY: Nuclear Regulatory Commission.

ACTION: Determination of inspections, tests, analyses, and acceptance criteria (ITAAC).

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff has determined that the inspections, tests, and analyses have been successfully completed, and that the specified acceptance criteria are met for ITAAC E.3.8.05.01.01, for the Vogtle Unit 3 Combined License.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0252. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: David Jaffe, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1439, email: *David.Jaffe@nrc.gov*.

SUPPLEMENTARY INFORMATION:

Licensee Notification of Completion of ITAAC

On October 1, 2013, Southern Nuclear Operating Company, Inc., (the licensee) submitted an ITAAC closure notification (ICN) under § 52.99(c)(1) of Title 10 of the *Code of Federal Regulations* (10 CFR) informing the NRC that the licensee has successfully performed the required inspections, tests, and analyses for ITAAC E.3.8.05.01.01, and that the specified acceptance criteria are met for Vogtle Unit 3 Combined License (ADAMS Accession No. ML13276A034). This ITAAC was approved as part of the

issuance of the combined license, NPF–91, for this facility.

NRC Staff Determination of Completion of ITAAC

The NRC staff has determined that the inspections, tests, and analyses have been successfully completed, and that the specified acceptance criteria are met for Vogtle Unit 3 Combined License, ITAAC E.3.8.05.01.01. This notice fulfills the staff's obligations under 10 CFR 52.99(e)(1) to publish a notice in the **Federal Register** of the NRC staff's determination of the successful completion of inspections, tests and analyses.

The documentation of the NRC staff's determination is in the ITAAC Closure Verification Evaluation Form (VEF), dated October 21, 2013 (ADAMS Accession No. ML13294A349). The VEF is a form that represents the NRC staff's structured process for reviewing ICNs. The ICN presents a narrative description of how the ITAAC was completed, and the NRC's ICN review process involves a determination on whether, among other things: (1) The ICN provides sufficient information, including a summary of the methodology used to perform the ITAAC, to demonstrate that the inspections, tests, and analyses have been successfully completed; (2) the ICN provides sufficient information to demonstrate that the acceptance criteria are met; and (3) any inspections for the ITAAC have been completed and any ITAAC findings associated with the ITAAC have been closed.

The NRC staff's determination of the successful completion of this ITAAC is based on information available at this time and is subject to the licensee's ability to maintain the condition that the acceptance criteria are met. If new information disputes the NRC staff's determination, this ITAAC will be reopened as necessary. The NRC staff's determination will be used to support a subsequent finding, pursuant to 10 CFR 52.103(g), at the end of construction that all acceptance criteria in the combined license are met. The ITAAC closure process is not finalized for this ITAAC until the NRC makes an affirmative finding under 10 CFR 52.103(g). Any future updates to the status of this ITAAC will be reflected on the NRC's Web site at *http://www.nrc.gov/reactors/new-reactors/oversight/itaac.html.*

Dated at Rockville, Maryland, this 8th day of November 2013.

For the Nuclear Regulatory Commission.

David Jaffe,

Project Manager, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2013–27727 Filed 11–18–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0251]

Proposed License Renewal of the Prairie Island Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft environmental assessment and draft finding of no significant impact; request for comment.

SUMMARY: On October 20, 2011, Northern States Power Company, a Minnesota Corporation, (NSPM) (doing business as Xcel Energy), submitted an application to the U.S. Nuclear Regulatory Commission (NRC) requesting renewal of Special Nuclear Materials (SNM) license number SNM–2506 for the Prairie Island Nuclear Generating Plant (PINGP) site-specific Independent Spent Fuel Storage Installation (ISFSI) located in Red Wing, Goodhue County, Minnesota, for an additional 40 years. The NRC staff is conducting an environmental review of the proposed license renewal and has prepared a draft environmental assessment (EA) and draft finding of no significant impact (FONSI) in accordance with NRC regulations. The NRC is requesting public comments on the draft EA and the draft FONSI.

DATES: Submit comments by December 19, 2013. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0251. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch, Office of Administration, Mail Stop: 3WFN–06–44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jean Trefethen, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington DC, 20555–0001; telephone: 301–415–7000; email: *Jean.Trefethen@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0251 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0251.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The draft EA is available in ADAMS under Accession No. ML13205A120. The draft FONSI is included in the Draft EA.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2013–0251 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the

comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Summary of Draft Environmental Assessment and Draft Finding of No Significant Impact

The NRC staff has prepared a draft EA and draft FONSI (ADAMS Accession No. ML13205A120) under the NRC's regulations in part 51 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' which implement the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 et seq), for NSPM's application to renew license SNM–2506 for the Prairie Island (PI) site-specific ISFSI for up to an additional 40 years. In 1993, the NRC issued a 20-year license to NSPM to receive, possess, store, and transfer spent nuclear fuel generated at the PINGP, Units 1 and 2, in the PI ISFSI. License SNM–2506 currently allows NSPM to store up to 48 transnuclear-40 casks (TN–40) and TN–40 high thermal (TN–40HT) casks at the ISFSI. The PI ISFSI is located within the facility boundary of the PINGP, which is located within the city limits of Red Wing in Goodhue County, Minnesota, approximately 45 kilometers (km) [28 miles (mi)] southeast of the Minneapolis-St. Paul metropolitan area.

The proposed action is whether to renew the license for up to an additional 40 years. If approved, NSPM would continue to possess and store the PINGP, Units 1 and 2, spent fuel at the PI ISFSI under the requirements in 10 CFR part 72, ''Licensing Requirements for the Independent Storage of Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste.'' The NRC's regulations at 10 CFR 72.42 authorize the renewal of ISFSI-specific licenses for a period not to exceed 40 years. The NRC issued this provision, allowing for renewals of up to 40 years, in a final rule published in the **Federal Register** on February 16, 2011 (76 FR 8890).

The NRC staff's environmental review of the proposed license renewal is documented in the draft EA and draft FONSI, which was prepared in accordance with the NRC's regulations in 10 CFR part 51 and NRC staff guidance in NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated with NMSS programs'' (ADAMS Accession No. ML032450279). An EA (1) briefly provides sufficient evidence and analysis for determining whether to prepare an Environmental Impact Statement (EIS) or a FONSI, (2) facilitates creation of an EIS when one is necessary, and (3) aids the NRC's compliance with NEPA when an EIS is not necessary. Pursuant to 10 CFR 51.33, the NRC staff is making the draft EA and the draft FONSI available for public review and comment.

In October 2012, the NRC and the Prairie Island Indian Community (PIIC) entered into a Memorandum of Understanding (MOU) (ADAMS Accession No. ML12284A456). The MOU acknowledges the PIIC's special expertise in the areas of historic and cultural resources, socioeconomics, land use, and environmental justice as they relate to license renewal for the PI ISFSI, and establishes a cooperating agency relationship between the NRC and the PIIC. The MOU also defines the roles and responsibilities of both entities and the process they will use to prepare an EA that incorporates and reflects the PIIC's views in the areas of special expertise.

In the draft EA, the NRC staff describes the affected environment and evaluates the potential environmental impacts from the proposed 40-year renewal of license SNM–2506 on land use; transportation; socioeconomics; climatology, meteorology and air quality; geology and soils; water resources; ecology and threatened and endangered species; visual and scenic resources; noise; historic and cultural resources; public and occupational health and safety; waste management; and environmental justice. The draft EA also discusses the alternatives to the proposed action. The staff also evaluated the potential environmental impacts from decommissioning of the PI ISFSI, taking into consideration an additional 40 years of operation. Additionally, NRC staff analyzed the cumulative impacts from past, present, and reasonably foreseeable future actions when combined with the potential environmental impacts of the proposed action.

The NRC staff evaluated potential environmental impacts and categorized the impacts as follows:

- SMALL—environmental effects are not detectable or are so minor that they will neither destabilize nor noticeably alter any important attribute of the resource.
- MODERATE—environmental effects are sufficient to alter noticeably, but not to destabilize important attributes of the resource.
- LARGE—environmental effects are clearly noticeable and are sufficient to destabilize important attributes of the resource.

The NRC staff preliminarily finds that the impacts from the proposed action would be SMALL and, thus, not significant for all environmental resource areas. In addition, the NRC staff preliminarily concludes that there would be no disproportionately high and adverse impacts to minority and low-income populations, historical and cultural resources, and that Federally-listed threatened and endangered species are not likely to be adversely affected by the continued operation of the PI ISFSI during the proposed license renewal period.

The NRC staff is also performing a detailed safety analysis of the NSPM's license renewal application to assess compliance with 10 CFR part 20, ''Standards for Protection Against Radiation,'' and 10 CFR part 72, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste.'' The NRC staff's analysis will be documented in a separate safety evaluation report (SER). The NRC staff's decision whether to renew the NSPM's PI ISFSI license as proposed will be based on the results of the NRC staff's review as documented in the final EA, the final FONSI, and in the SER.

On June 8, 2012, the United States Court of Appeals for the District of Columbia Circuit [*New York* v. *NRC,* 681 F.3d 471 (D.C. Cir. 2012)], in response to a legal challenge to the NRC's Waste Confidence (WC) Decision and Rule Update, vacated the NRC's WC Decision and Rule Update (75 FR 81032 and 75 FR 81037). The Court held that the WC Decision and Rule Update is a major Federal action necessitating either an EIS or a FONSI, and the Commission's evaluation of the risks associated with the storage of spent nuclear fuel for at least 60 years beyond the licensed life of a reactor is deficient. In response to the Court's ruling, the Commission, in CLI–12–16 (ADAMS Accession No. ML12220A100), determined that it would not issue licenses dependent upon the WC Decision and Rule until the issues identified in the Court's decision are

appropriately addressed. In CLI–12–16, the Commission also noted that this determination extends only to final license issuance; all current licensing reviews and proceedings should continue to move forward. The Commission directed the NRC staff to proceed with a rulemaking that includes the development of an EIS to support an updated WC Decision and Rule within 24 months (by September 2014).

The updated rule and supporting Generic EIS (GEIS) will provide the necessary NEPA analyses of waste-confidence-related environmental issues. As directed by the Commission, the NRC will not issue a renewed license for the PI ISFSI before waste-confidence-related issues are resolved. This will ensure the NRC's consideration of any resource commitments or potential harm to the environment before WC impacts have been addressed. If the results of the WC GEIS identify information that requires a supplement to this draft EA and draft FONSI, the NRC staff will perform any appropriate additional NEPA review for those issues before the NRC makes a final licensing decision.

Based on its review of the proposed action in the draft EA relative to the requirements set forth in 10 CFR part 51, the NRC staff has preliminarily determined that renewal of NRC license SNM–2506, which would authorize continued operation of the PI ISFSI in Goodhue County, Minnesota, for a period of up to 40 years, will not significantly affect the quality of the human environment. No significant changes in NSPM's authorized operations for the PI ISFSI were requested as part of the license renewal application. Approval of the proposed action would not result in any new construction or expansion of the existing ISFSI footprint beyond that previously approved. The ISFSI is a passive facility that produces no liquid or gaseous effluents. No significant radiological or nonradiological impacts are expected from continued normal operations. Occupational dose estimates from routine monitoring activities and transfer of spent fuel for disposal are expected to be at as low as reasonably achievable (ALARA) levels and are expected to be within the limits of 10 CFR 20.1201. The estimated annual dose to the nearest potential member of the public from ISFSI activities is 0.02 millisieverts/year (mSv/yr) [2.20 millirem/year (mrem/yr)], which is below the 0.25 mSv/yr [25 mrem/yr] limit specified in 10 CFR 72.104(a) and the 1 mSv/yr (100 mrem/yr) limit in 10 CFR 20.1301(a)(1). Therefore, based on this preliminary assessment, the NRC staff has preliminarily determined that an EIS is not warranted and, pursuant to 10 CFR 51.31, a FONSI is appropriate.

The draft EA and the draft FONSI for the proposed PI ISFSI license renewal will also be available at the following public library: Red Wing Public Library, 225 East Avenue, Red Wing, MN 55066.

Pursuant to 10 CFR 51.33, the NRC staff is making this draft EA and this draft FONSI available for public review and comment. In doing so, the NRC staff determined that preparation of the draft EA and the draft FONSI furthers the purposes of NEPA. Based on the comments received, the NRC staff may determine that a final FONSI is appropriate or instead find that preparation of an EIS is warranted should significant impacts resulting from the proposed action be identified. The NRC staff's final determination will be noticed in the **Federal Register**.

Dated at Rockville, Maryland, this 7th day of November 2013.

For the U.S. Nuclear Regulatory Commission.

Aby Mohseni,

Deputy Director, Environmental Protection and Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2013–27730 Filed 11–18–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0001]

Sunshine Act Meeting Notice

DATE: Weeks of November 18, 25, December 2, 9, 16, 23, 2013.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of November 18, 2013

Thursday, November 21, 2013

4:00 p.m. Discussion of Management and Personnel Issues (Closed—Ex. 2 and 6)

Week of November 25, 2013—Tentative

There are no meetings scheduled for the week of November 25, 2013.

Week of December 2, 2013—Tentative

There are no meetings scheduled for the week of December 2, 2013.

Week of December 9, 2013—Tentative

There are no meetings scheduled for the week of December 9, 2013.

Week of December 16, 2013—Tentative

There are no meetings scheduled for the week of December 16, 2013.

Week of December 23, 2013—Tentative

There are no meetings scheduled for the week of December 23, 2013.

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Additional Information

The Briefing on Spent Fuel Pool Safety and Consideration of Expedited Transfer to Dry Casks scheduled on November 21, 2013, was postponed.

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The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html*.

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *Kimberly.Meyer-Chambers@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Darlene.Wright@nrc.gov*.

Dated: November 14, 2013.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2013–27812 Filed 11–15–13; 4:15 pm]

BILLING CODE 7590–01–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY OFFICE

National Nanotechnology Initiative Strategic Plan; National Science and Technology Council; National Nanotechnology Coordination Office

AGENCY: Executive Office of the President, Office of Science and Technology Policy.

ACTION: Request for public comment.

SUMMARY: The National Science and Technology Council; Committee on Technology; Nanoscale Science, Engineering, and Technology Subcommittee requests public comments on the draft 2014 National Nanotechnology Initiative (NNI) Strategic Plan. The draft plan will be posted at *www.nano.gov/2014strategy*. Comments of approximately one page or less in length (4,000 characters) are requested and must be received by December 17, 2013 to be considered.

DATES: Comments must be received by 11:59 p.m. EST on December 17, 2013.

ADDRESSES: Respondents are encouraged to submit their comments (4,000 characters or less) through one of the following methods. Please reference page and line numbers in your response, as appropriate Submission via the Web site is the preferred method of submission. Please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. Responses to this notice are not offers and cannot be accepted by the Federal Government to form a binding contract or issue a grant. Information obtained as a result of this notice may be used by the Federal Government for program planning on a non-attribution basis. Do not include any information that might be considered proprietary or confidential. Please be aware that your comments may be posted online.

- *Web site: www.nano.gov/2014strategy.*
- *Email: 2014NNIStrategy@nnco.nano.gov.*
- *Postal Mail:* Stacey Standridge, ATTN: NNI Strategic Plan Comments, 4201 Wilson Blvd., Stafford II Suite 405, Arlington, VA 22230.
- *Fax:* (703) 292–9312.

SUPPLEMENTARY INFORMATION: The National Nanotechnology Initiative (NNI) Strategic Plan is the framework that underpins the nanotechnology work of the NNI member agencies. It aims to ensure that advances in nanotechnology research and development (R&D) and their applications to agency missions and the broader national interest continue unabated in this still-young field. Its purpose is to facilitate achievement of the NNI vision by laying out targeted guidance for agency leaders, program managers, and the research community regarding planning and implementation of nanotechnology R&D investments and activities.

The NNI is a U.S. Government R&D program of 20 departments and independent agencies working together toward the common vision of a future in which the ability to understand and control matter at the nanoscale level leads to a revolution in technology and industry that benefits society. The combined, coordinated efforts of these agencies have accelerated discovery, development, and deployment of nanotechnology towards agency missions and the broader national interest. Established in 2001, the NNI involves nanotechnology-related activities by the 20 member agencies, 11 of which have budgets for nanotechnology R&D in Fiscal Year (FY) 2014.

The NNI is managed within the framework of the National Science and Technology Council (NSTC), the Cabinet-level council that coordinates science and technology across the Federal government and interfaces with other sectors. The Nanoscale Science, Engineering, and Technology (NSET) Subcommittee of the NSTC coordinates planning, budgeting, program implementation, and review of the NNI. The NSET Subcommittee is composed of senior representatives from agencies participating in the NNI (*www.nano.gov/nset*).

The NSET Subcommittee has solicited multiple streams of input to inform the development of a revised NNI Strategic Plan. Independent reviews of the NNI by the President's Council of Advisors on Science and Technology and the National Research Council of the National Academies have made specific recommendations for improving the NNI. Additional input has come from the NNI Strategic Planning Stakeholders Workshop in Washington, DC, on June 11–12, 2013 (details available online: *www.nano.gov/stakeholderworkshop*), as well as in responses to targeted questions that were posted on *www.nano.gov/stakeholderworkshop* from June 7-June 14, 2013.

The NNI Strategic Plan represents the consensus of the participating agencies as to the high-level goals and priorities of the NNI and specific objectives for at least the next three years. It describes the four overarching goals of the NNI; the major Program Component Areas, established in 2004 and revised in 2013, to broadly track the categories of investments needed to ensure the success of the initiative; and the near-term objectives that will be the concrete steps taken toward collectively achieving the NNI vision and goals. Finally, the plan describes collaborative interagency activities, including five Nanotechnology Signature Initiatives that are a model of specifically targeted and closely coordinated interagency, cross-sector collaboration designed to accelerate innovation in areas of national priority.

FOR FURTHER INFORMATION CONTACT: Any questions about the content of this notice should be sent to *2014NNIStrategy@nnco.nano.gov*. Questions and responses may also be sent by mail (please allow additional time for processing) to: Stacey Standridge, ATTN: NNI Strategic Plan Comments, 4201 Wilson Blvd., Stafford II Suite 405, Arlington, VA 22230. Phone: (703) 292–8103, Fax: (703) 292–9312.

Ted Wackler,

Deputy Chief of Staff and Assistant Director.

[FR Doc. 2013–27548 Filed 11–18–13; 8:45 am]

BILLING CODE 3270–F4–P

SECURITIES AND EXCHANGE COMMISSION

Notice of Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, November 21, 2013 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting will be:

Settlement of injunctive actions;

institution and settlement of administrative proceedings; and

other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: November 14, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–27764 Filed 11–15–13; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70852; File No. SR–BYX–2013–038]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Y-Exchange, Inc.

November 13, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 31, 2013, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule applicable to Members [5] and non-members of the Exchange pursuant to BYX Rules 15.1(a) and (c). While changes to the fee schedule pursuant to this proposal will be effective upon filing, the proposed changes will become operative on November 1, 2013.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its fee schedule applicable to the use of the Exchange effective November 1, 2013, in order to modify pricing related to executions that occur on BATS Exchange, Inc. (''BZX'') through the Exchange's TRIM [6] and SLIM routing strategies.[7] BZX implemented certain pricing changes effective October 1, 2013, including modification of the fee of $0.0029 per share when removing liquidity to a fee of $0.0030 per share when removing liquidity. To create a direct pass through of the applicable economics of executions at BZX through the TRIM and SLIM routing strategies, the Exchange proposes to charge $0.0030 per share for orders routed through such strategies and executed on BZX, rather than the $0.0029 per share that it currently charges for such orders. The Exchange is not proposing any other changes to its routing fees at this time.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[8] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[9] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures at a particular venue to be unreasonable and/or excessive. The Exchange believes that the proposed changes to the Exchange's routing fee for orders executed on BZX through the TRIM and SLIM routing strategies are equitably allocated, fair and reasonable, and non-discriminatory in that they are equally applicable to all Members and are designed to mirror the fee applicable to the execution if such routed orders were executed directly by the Member at BZX.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution is extremely competitive, Members may readily opt to disfavor the Exchange's routing services if they believe that alternatives offer them better value. For orders routed through the Exchange and executed at BZX through the TRIM and SLIM routing strategies, the proposed fee change is designed to equal the fee that a Member would have received if such routed orders would have been executed directly by a Member at BZX.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and paragraph (f) of Rule 19b–4 thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

[6] As defined in BYX Rule 11.13(a)(3)(G).

[7] As defined in BYX Rule 11.13(a)(3)(H).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f).

including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BYX–2013–038 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BYX–2013–038. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BYX–2013–038 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27618 Filed 11–18–13; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70854; File No. SR–NYSEMKT–2013–90]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .09 to Rule 903 To Modify the Quarterly Option Series Program To Eliminate the Cap on the Number of Additional Series That May Be Listed Per Expiration Month for Each QOS in Exchange-Traded Fund Options

November 13, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 5, 2013, NYSE MKT LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .09 to Rule 903 to modify the Quarterly Option Series (''QOS'') Program to eliminate the cap on the number of additional series that may be listed per expiration month for each QOS in exchange-traded fund (''ETF'') options. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Commentary .09(d) to Rule 903 related to the QOS Program to eliminate the cap on the number of additional series that may be listed per expiration month for each QOS in ETF options.[4] As set out in Commentary .09, the Exchange may list QOS for up to five currently listed options classes that are either index options or options on ETFs. The Exchange may also list QOS on any option classes that are selected by other securities exchanges that employ a similar program under their respective rules. Currently, for each QOS in ETF options that has been initially listed on the Exchange, the Exchange may list up to 60 additional series per expiration month.

The Exchange is proposing to amend Commentary .09(d) to make the treatment of QOS in ETF options consistent with the treatment of QOS in stock index options. Rule 900C(a)(iv) [sic] governs the QOS Program in stock index options. A stock index option is ''an option contract on a specific stock index group.''[5] Options on ETFs are similar to index options because ETFs hold securities based on an index or portfolio of securities.[6] The requirements and conditions of the QOS Program in index options, moreover, parallel those of the QOS Program in ETF options. For example, like the QOS Program in ETF options, the QOS Program in index options permits QOS in up to five currently-listed options

[4] A Quarterly Option Series is a series of an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any business day, and that expires at the close of business on the last business day of a calendar quarter. The Exchange lists series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. *See* Rules 900C(26) and 903, Commentary .09(a).

[5] Rule 900C(b)(2). ''Stock index group'' means: ''[A] group of stocks each of whose inclusion and relative representation in the group is determined by the inclusion and relative representation of their current market values or market prices in a widely disseminated stock index. A stock index group may relate to a stock index which reflects representative stock market values or prices of either a broad segment of the stock market (''broad stock index group'') or stocks representing a particular industry or related industries (''stock index industry group'').'' Rule 900C(b)(1).

[6] Rule 900.2NY(24) defines ''Exchange-Traded Fund Share'' as ''Exchange-listed securities representing interests in open-end unit investment trusts or open-end management investment companies that hold securities (including fixed income securities) based on an index or a portfolio of securities.''

classes; requires the listing of series that expire at the end of the next (as of the listing date) consecutive four quarters, as well as the fourth quarter of the next calendar year; requires the strike price of each QOS to be fixed at a price per share; and establishes parameters for the number of strike prices above and below the underlying index. The QOS Program in index options, however, does not place a cap on the number of additional series that the Exchange may list per expiration month for each QOS in index options. Elimination of the cap set out in Commentary .09(d), therefore, would result in similar regulatory treatment of similar options products.[7]

The Exchange believes that the proposed revision to the QOS Program would provide market participants with the ability to better tailor their trading to meet their investment objectives, including hedging securities positions, by permitting the Exchange to list additional QOS in ETF options that meet such objectives. The Exchange has observed that situations arise in which the market value of the ETF underlying QOS moves to the point that additional strike prices in smaller intervals would be valuable to investors. However, due to the cap on additional QOS series, the Exchange cannot always provide these important at-the-money strikes. Elimination of the cap would remedy this issue.

Currently, the Exchange lists quarterly expiration options on six ETFs, but the cap restricts the number of strikes on these options, which often results in a lack of strike continuity. For example, the Exchange lists quarterly expiration options on SPDR Gold Trust (''GLD''). On January 2, 2013, the Exchange initially listed December 31, 2013 quarterly expiration options (''December 2013 Quarterlies'') on GLD, which closed the previous trading day at $162.02, with initial strikes from $115 to $210, and additional strikes in $1 intervals from $131 to $189. But during 2013, GLD has closed at a range of $115.94 to $163.67 and is currently trading around $125. As a result of the cap, the Exchange cannot offer December 2013 Quarterlies on GLD in $1 intervals within $10 of the closing price of GLD because the number of strikes would exceed the cap of 60 additional strikes. Consequently, the Exchange is not able to list important at-the-money strikes due to the cap on additional strikes. While the Exchange has the ability to delist strikes with no open interest so that it may list strikes that are closer to the money, delisting is not always possible. If all of the existing strikes have open interest, the Exchange cannot delist strikes so that it may list strikes closer to the money.

But the Exchange is not subject to a similar cap on the number of additional weekly or monthly expiration options it can list on ETFs.[8] So, for example, the Exchange can list additional weekly expiration options on GLD in $1 and $0.50 intervals within $5 of the closing price of GLD, and additional monthly expiration options in $1 intervals from $85 to $178. Therefore, due to the cap, the Exchange cannot list, and an investor cannot structure, an investment on a quarterly basis with the same granularity that can be achieved on a weekly or monthly basis.

Similarly, the Exchange lists quarterly options on SPDR S&P 500 ETF (''SPY''), which during 2013 closed at a range of $145.55 to $173.05. Again, due to the cap, the Exchange cannot offer quarterly expiration options on SPY in $1 intervals above $170 because the number of additional strikes would exceed the cap of 60. Instead, the Exchange is forced to list quarterly expiration options on SPY at $5 intervals above $170, despite the fact that SPY has recently traded between $165 and $170. As such, if SPY would again increase to $170, then the Exchange would only be able to offer options with a strike price $5 away from the price of the underlying ETF due to the cap on additional strikes.

On the other hand, in contrast to the limitations imposed on the Exchange for quarterly expiration options on ETFs, the absence of a similar cap on quarterly expiration options on indexes means that the Exchange can list, and investors can achieve, more granularity in index-based options. For example, S&P 500 Mini—SPX options (''SPX'') are options on the S&P 500 index, as opposed to options on SPY, the ETF based on that same S&P 500 index. SPX options are used to hedge SPY positions and are traded at the equivalent of one point and one-half point intervals. The SPX trades at 10 times the value of SPY, so that if SPY trades at $168.70, SPX trades at $1687. Therefore, the strike price for a quarterly expiration option on SPX, that is a hedge for a quarterly expiration option on SPY at $170, would be $1700. The Exchange can offer quarterly expiration options on SPX with strike prices of $1670, $1680, $1690, and $1700 because there is no cap on quarterly expiration index-based options. However, the Exchange cannot similarly offer quarterly expiration options on SPY with similar strike price continuity because of the cap on quarterly expiration ETF-based options.

Elimination of the cap would also help market participants meet their investment objectives by providing expanded opportunities to roll ETF options into later quarters. For example, a market participant that holds one or more contracts in a QOS in an ETF put option that has a strike price of $120 and an expiration date of the last day of the third quarter may wish to roll that position into the fourth quarter. That is, the market participant may wish to close out the contracts set to expire at the end of the third quarter and instead establish a position in the same number of contracts in a QOS in a put option on the same ETF with the same strike price of $120, but with an expiration date of the last day of the fourth quarter. Because of the cap on additional QOS in ETF options, however, the Exchange may not be able to list additional QOS in the ETF. Elimination of the cap, though, would allow the Exchange to meet the investment needs of market participants in such situations.

The Exchange has sufficient capacity to handle increased quote and trade reporting traffic that might be expected to result from listing additional QOS in ETF options. The Exchange notes that it has purchased capacity from the Options Price Reporting Authority (''OPRA'') to handle its options quote and trade reporting traffic.[9] The

[7] The Exchange notes that Rule 903C(a)(iv)(4), which governs the addition of new series of Quarterly Options Series on index options, states: ''The Exchange may open additional strike prices of a Quarterly Options Series that are above the value of the underlying index provided that the total number of strike prices above the value of the underlying index is no greater than five. The Exchange may open additional strike prices of a Quarterly Options Series that are below the value of the underlying index provided that the total number of strike prices is below the value of the underlying index is no greater than five. The opening of any new Quarterly Options series shall not affect the series of options of the same class previously opened.'' In practice, this means that the Exchange may add Quarterly Options Series at strikes above and below the current index value, so long as there are not more than five strikes above, and five strikes below, the current index value after such additions are made. The total number of Quarterly Options Series that can be listed at any one time is, therefore, theoretically unlimited, so long as there are no more than five strikes above (or below) a given index value when new strikes are added.

[8] For Short Term Options Series (''weekly options''), commentary .10 to Rule 903 sets a maximum number of strikes, but the Exchange can exceed this maximum number of strikes under certain circumstances. Specifically, ''in the event that the underlying security has moved such that there are no series that are at least 10% above or below the current price of the underlying security and all existing series have open interest, the Exchange may list additional series, in excess of the 30 allowed under Commentary .10, that are between 10% and 30% above or below the price of the underlying security.''

[9] *See* Exchange Act Release No. 48822 (Nov. 21, 2003), 68 FR 66892 (Nov. 28, 2003) (SR–OPRA–

Exchange believes that it has acquired sufficient capacity to handle increased quote and trade reporting traffic that might be expected to result from listing additional QOS in ETF options.[10] In the Exchange's view, it would be inconsistent to prohibit the listing of additional QOS beyond a specified cap when each exchange independently purchases capacity to meet its quote and trade reporting traffic needs.

Moreover, the Exchange has in place a quote mitigation plan that helps it maintain sufficient capacity to handle quote traffic. The plan, which has been approved by the Commission, reduces the number of quotations that the Exchange disseminates by limiting disseminated quotes to active options series only.[11]

To help ensure that only active options series are listed, the Exchange also has in place procedures to delist inactive series. Commentary .09(f) to Rule 903 requires the Exchange to review QOS that are outside of a range of five strikes above and five strikes below the current price of the underlying ETF. Based on that review, the Exchange must delist series with no open interest in both the call and the put series having (i) a strike price higher than the highest price with open interest in the put and/or call series for a given expiration month, and (ii) a strike price lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.

Finally, the Exchange is proposing to update an outdated cross-reference in Commentary .09(d) to Rule 903. Commentary .09(d) currently states that the term ''Exchange-Traded Fund Share'' is defined in Rule 900(b)(42); however, that term is defined in Rule 900.2NY(24). The Exchange proposes to update the language accordingly.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5),[13] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market because it will expand the investment options available to investors and will allow for more efficient risk management. The Exchange believes that removing the cap on the number of QOS in ETF options permitted to be listed on the Exchange will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment and hedging decisions to their needs, and therefore, the proposal is designed to protect investors and the public interest. Additionally, by removing the cap, the proposed rule change will make the treatment of QOS in ETF options consistent with the treatment of QOS in index options, thus resulting in similar regulatory treatment for similar options products.

While the expansion of the number of QOS in ETF options is expected to generate additional quote traffic, the Exchange believes that this increased traffic will be manageable and will not present capacity problems. As previously stated, the Exchange has in place a quote mitigation plan that helps it maintain sufficient capacity to handle quote traffic. To help ensure that only active options series are listed, Exchange procedures are designed to delist inactive series, ensuring that any additional quote traffic is a result of interest in active series.

Finally, amending Commentary .09(d) to Rule 903 to correct an outdated cross-reference to the definition of Exchange-Traded Fund Shares will remove impediments to, and perfect the mechanism of a free and open market system. The Exchange believes that the proposed rule change will resolve any investor confusion regarding the incorrect cross-reference, and ensures that the Exchange provides a clear and well-defined rule set.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that investors would benefit from the introduction of additional QOS in ETF options by providing investors with more flexibility to closely tailor their investment and hedging decisions to their needs. Additionally, Exchange procedures for delisting inactive series will ensure that only active series with sufficient investor interest will be made available and maintained on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and Rule 19b–4(f)(6) [15] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [16] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

2003–01) (requiring exchanges to acquire options market data transmission capacity independently, rather than jointly).

[10] The SEC has relied upon an exchange's representation that it has sufficient capacity to support new options series in approving a rule amendment permitting the listing of additional option series. *See* Exchange Act Release No. 57410 (Jan. 17 [sic], 2008), 73 FR 12483, 12484 (Mar. 7, 2008) (SR–CBOE–2007–96) (amendments to CBOE Rule 5.5(e)(3)) (''In approving the proposed rule change, the Commission has relied upon the Exchange's representation that it has the necessary systems capacity to support new options series that will result from this proposal'').

[11] The Exchange's quote mitigation plan is set out in Rule 970.1NY, adopted in 2009.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 15 U.S.C. 78s(b)(2)(B).

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2013–90 on the subject line.

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–90. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2013–90 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27620 Filed 11–18–13; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70862; File No. SR–MIAX–2013–51]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rule 504, Trading Halts

November 13, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 1, 2013, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Rule 504, Trading Halts. The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 504 in order to provide for an automated notification between five and twenty seconds prior to the resumption of trading in an option class (a ''Post-Halt Notification'') following a regulatory halt, trading pause or market-wide trading halt.

Currently, the Exchange's Trading Operations staff at the MIAX Help Desk issues a Post-Halt Notification twenty seconds before trading resumes in an option class that has been halted pursuant to Rule 504(a). The Post-Halt Notification states the time at which trading in the option class or classes is expected to resume providing subscribers of the Exchange's data feeds with a brief notice period (twenty seconds) to prepare for the beginning or resumption of trading after a trading system halt has ended. For trading halts initiated by the System due to a regulatory halt, trading pause or market-wide trading halt, no Post-Halt Notification currently is provided to market participants.[3] Not providing a Post-Halt Notification for these types of trading halts while providing one for halts pursuant to Rule 504(a) potentially creates unnecessary confusion on the part of market participants seeking information about when options trading may restart following a trading halt. In addition, without the Post-Halt Notification after a regulatory halt, trading pause or market-wide trading halt, market participants may not be able to be in a position to resume quoting and/or submitting orders as soon as such an option class begins trading following a trading halt, thus delaying reopening. The Exchange proposes to eliminate any potential confusion that may be caused by the disparate treatment resulting from providing Post-Halt Notifications after trading halts pursuant to Rule 504(a), but not regulatory halts, trading pauses or market-wide trading halts.

The Exchange proposes to amend Rule 504 to provide that in situations of a regulatory halt, trading pause or market-wide trading halt, a Post-Halt Notification will be broadcast between five and twenty seconds before trading will begin or resume. The Post-Halt Notification period for a regulatory halt, trading pause or market-wide trading halt will be configurable in the MIAX System for a time period between five and twenty seconds before trading in the option class resumes. The MIAX System will send a broadcast message indicating that trading in the option class will begin or resume within the configurable Post-Halt Notification period. The Exchange will announce the duration of the Post-Halt Notification

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 504(d) (specifically carving out regulatory halts, trading pauses or market-wide trading halts from the Post-Halt Notification).

period through a Regulatory Circular, and will issue a Regulatory Circular prior to the beginning of trading on any day that the Post-Halt Notification period is reconfigured.[4] The Exchange believes that the new Post-Halt Notification will eliminate potential confusion on the timing of reopening after a regulatory halt, trading pause or market-wide trading halt and thus provide market participants with the opportunity to be in a position to resume quoting and/or submitting orders as soon as such an option class begins trading in a manner that facilitates the reopening of trading after a halt and benefits all market participants on the Exchange.

The Exchange notes that in the situation of a halt pursuant to Rule 504(a), just as today, the Post-Halt Notification will continue to be initiated by Help Desk staff and broadcast twenty seconds before trading will begin or resume.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b)[5] of the Act in general, and furthers the objectives of Section 6(b)(5)[6] of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposal is designed to enhance the Exchange's ability to notify participants when a previously halted option class will begin or resume trading, which removes impediments to, and perfects the mechanisms of, a free and open market and the national market system as a whole, by ensuring that participants are in a position to resume quoting and/or submitting orders as soon as such an option class begins trading following a regulatory halt, trading pause or market-wide trading halt. The system change also fosters cooperation and coordination with persons engaged in facilitating transactions in securities by ensuring that all subscribers to the Exchange's data feeds receive automatic notification of the trading status of a halted issue.

[4] The Post-Halt Notification period will not be reconfigured on an intra-day basis. The Exchange does not anticipate changing the configuration on a frequent basis.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the Post-Halt Notification broadcast by the MIAX System actually enhances competition by expeditiously notifying Members that an affected option class will begin or resume trading, thus incenting market participants to resume quoting competitively and/or to submit orders to the Exchange for execution upon such resumption.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6)[8] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2013–51 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2013–51. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2013–51 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27628 Filed 11–18–13; 8:45 am]

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[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70853; File No. SR–BATS–2013–058]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

November 13, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 31, 2013, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). While changes to the fee schedule pursuant to this proposal will be effective upon filing, the proposed changes will become operative on November 1, 2013.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its fee schedule applicable to use of the Exchange effective November 1, 2013, in order to: (1) Modify the fees applicable to executions occurring through certain routing strategies at the Exchange's affiliate, BATS Y-Exchange, Inc. (''BYX''); and (2) modify the way that, for purposes of tiered pricing on the Exchange's equities trading platform (''BATS Equities''), the Exchange calculates ADV, ADAV, and TCV (as such terms are defined below).

Routing Strategies to BYX

BYX currently provides a base rebate of $0.0001 per share when removing liquidity. To create a direct pass through of the applicable economics of executions at BYX through the Destination Specific,[6] TRIM (including TRIM2 and TRIM3),[7] and SLIM[8] routing strategies, the Exchange proposes to rebate $0.0001 per share for orders routed through such strategies and executed on BYX, rather than the $0.0002 per share that it currently rebates for such orders. The Exchange is not proposing any other changes to its routing fees at this time.

Modifications to Definitions Used for Equities Pricing Tiers

The Exchange proposes to modify its fee schedule in order to amend the way that the Exchange calculates rebates for removing liquidity from and fees for adding liquidity to the Exchange. Specifically, the Exchange is proposing to amend the methodology by which it determines the rebate that it will provide to Members based on the Exchange's tiered pricing structure by excluding from the calculation of ADV,[9] ADAV,[10], and average daily TCV[11] any day that trading is not available on the Exchange for more than sixty (60) minutes during regular trading hours (i.e., 9:30 a.m. to 4:00 p.m. Eastern Time) but continues on other markets during such time (an ''Exchange Outage'').

The Exchange currently offers a tiered structure for determining the rebates that Members receive for executions that add liquidity to the Exchange. Under the tiered pricing structure, the Exchange provides different rebates to Members based on a Member's ADV or ADAV as a percentage of average daily TCV. The Exchange notes that it is not proposing to modify any of the existing rebates or the percentage thresholds at which a Member may qualify for certain rebates pursuant to the tiered pricing structure. Rather, as mentioned above, the Exchange is proposing to modify its fee schedule in order to exclude trading activity occurring on any day that the Exchange experiences an Exchange Outage, defined as an outage lasting for more than sixty (60) minutes, from the calculation of ADV, ADAV and average daily TCV. The Exchange believes that including trading activity on days when trading on the Exchange is unavailable for a significant portion of the day can unfairly skew the calculation of ADV, ADAV and TCV. Thus, the Exchange believes that the most accurate and fair implementation of its tiered pricing structure is to exclude from the calculation of ADV, ADAV and TCV all days where the Exchange experiences an Exchange Outage.

The Exchange believes that eliminating days where the Exchange experiences an Exchange Outage from the definition of ADV, ADAV and TCV, and thereby eliminating that day from the calculation as it relates to rebates and fees based on trading activity on the Exchange, will help to eliminate significant uncertainty faced by Members as to their monthly ADV or ADAV as a percentage of average daily TCV and the rebates that this percentage will qualify for, providing Members with an increased certainty as to their monthly cost for trades executed on the Exchange.

The Exchange notes that it recently adopted changes to exclude the last Friday of June from the calculation of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

[6] As defined in BATS Rule 11.9(c)(12).

[7] As defined in BATS Rule 11.13(a)(3)(G).

[8] As defined in BATS Rule 11.13(a)(3)(H).

[9] As provided in the fee schedule, ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day on a monthly basis; routed shares are not included in ADV calculation.

[10] As provided in the fee schedule, ''ADAV'' means average daily volume calculated as the number of shares added per day on a monthly basis; routed shares are not included in ADV calculation.

[11] As provided in the fee schedule ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

ADV and average daily TCV.[12] The last day of June is the day that Russell Investments reconstitutes its family of indexes (''Russell Reconstitution''), resulting in particularly high trading volumes, much of which the Exchange believes derives from market participants who are not generally as active entering the market to rebalance their holdings in-line with the Russell Reconstitution. The Exchange also notes that its affiliate, BYX, recently implemented a similar change to its definitions of ADV and TCV for purposes of BYX tiered pricing.[13]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[14] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[15] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

The Exchange believes that the proposed changes to the Exchange's rebate for TRIM (including TRIM2 and TRIM3), SLIM and Destination Specific Orders executed on BYX are equitably allocated, fair and reasonable, and non-discriminatory in that they are equally applicable to all Members and are designed to mirror the rebate applicable to the execution if such routed orders were executed directly by the Member at BYX.

With respect to the proposed changes to the tiered pricing structure for removing liquidity from the Exchange and adding liquidity to the Exchange, the Exchange believes that its proposal is reasonable because, as explained above, it will help provide Members with a greater level of certainty as to their level of rebates and costs for trading in any month where the Exchange experiences an Exchange Outage on one or more trading days. The Exchange also believes that its proposal is reasonable because it is not changing the thresholds to become eligible or the dollar value associated with the tiered rebates or fees and, moreover, by eliminating the inclusion of a trading day that would almost certainly lower a Member's ADV or ADAV as a percentage of average daily TCV, it will make the majority of Members more likely to meet the minimum or higher tier thresholds, which will provide additional incentive to Members to increase their participation on the Exchange in order to meet the next tier. In addition, the Exchange believes that the proposed changes to fees are equitably allocated among Exchange constituents as the methodology for calculating ADV, ADAV and TCV will apply equally to all Members. While, although unlikely, certain Members may have a higher ADV or ADAV as a percentage of average daily TCV with their activity included from days where the Exchange has an Exchange Outage, the proposal will make all Members' cost of trading on the Exchange more predictable, regardless of how the proposal affects their ADV or ADAV as a percentage of average daily TCV. The Exchange also notes that its affiliate, BYX, recently made a similar change.[16]

Volume-based tiers such as the liquidity adding tiers maintained by the Exchange have been widely adopted, and are equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide higher rebates or lower fees that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery process. Accordingly, the Exchange believes that the proposal is equitably allocated and not unfairly discriminatory because it is consistent with the overall goals of enhancing market quality. Further, the Exchange believes that a tiered pricing model not significantly altered by a day of atypical trading behavior which allows Members to predictably calculate what their costs associated with trading activity on the Exchange will be is reasonable, fair and equitable and not unreasonably discriminatory as it is uniform in application amongst Members and should enable such participants to operate their business without concern of unpredictable and potentially significant changes in expenses.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution is extremely competitive, Members may readily opt to disfavor the Exchange's routing services if they believe that alternatives offer them better value. For orders routed through the Exchange and executed at BYX through the TRIM (including TRIM2 and TRIM3), SLIM and Destination Specific Order strategies, the proposed fee change is designed to equal the rebate that a Member would have received if such routed orders would have been executed directly by a Member at BYX. Further, the proposed changes will help to promote intramarket competition by avoiding a penalty to Members for days when trading on the Exchange is unavailable for a significant portion of the day. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if the deem fee structures to be unreasonable or excessive.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and paragraph (f) of Rule 19b–4 thereunder.[18] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

[12] Securities Exchange Act Release No. 69793 (June 18, 2013), 78 FR 37865 (SR–BATS–2013–034) (notice of filing and immediate effectiveness of proposed rule change to exclude the Russell Reconstitution day from the calculation of ADV and TCV for purposes of BATS Equities tiered pricing). The Exchange notes that while it did not have a definition of ADAV in its fee schedule at the time the Russell Reconstitution exclusion was added, the exclusion does apply to ADAV pursuant to the fee schedule, as amended. *See* Securities Exchange Act Release No. 70664 (October 11, 2013), 78 FR 68204 (October 22, 2013) (SR–BATS–2013–054) (notice of filing and immediate effectiveness to modify the fees of BATS Exchange, Inc., including the addition of a definition of ADAV).

[13] Securities Exchange Act Release No. 70666 (October 11, 2013), 78 FR 37865 [sic] (October 22, 2013) (SR–BYX–2013–034) (notice of filing and immediate effectiveness of proposed rule change to exclude from the definition of ADV and TCV days that BATS Y-Exchange, Inc. experiences an outage lasting more than 60 minutes).

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(4).

[16] *See supra* note 13.

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2013–058 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2013–058. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2013–058 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27619 Filed 11–18–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70866; File No. SR–Phlx–2013–113]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Offer a Customer Rebate

November 13, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on October 31, 2013, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section B of the Exchange's Pricing Schedule, entitled ''Customer Rebate Program'', to offer its market participants an additional rebate.

While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated the proposed amendment to be operative on November 1, 2013.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Customer Rebate Program in Section B of the Pricing Schedule to increase Customer rebates available to market participants that transact Customer-denominated orders on Phlx. Specifically, Phlx proposes to offer its members the opportunity to increase the Customer rebates offered in Section B of the Pricing Schedule for transactions on Phlx if the aggregate volumes of Customer orders transacted by a member organization and its affiliates on Phlx, The NASDAQ Options Market LLC (''NOM'') and/or NASDAQ OMX BX, Inc. (''BX Options'') (collectively ''NASDAQ OMX exchanges'') exceed a specified volume. The Exchange would increase the applicable Phlx Customer rebate for which the member organization qualified in the Customer Rebate Program by $0.02 per contract, in any category, provided the member organization, together with any affiliate under Common Ownership,[3] transacts Customer volume on Phlx, NOM and/or BX in multiply-listed options that is electronically delivered and executed equal to or greater than 2.5% of national customer volume in multiply-listed options during the month.

Today, the Exchange pays Customer Rebates based on a four-tier structure comprised of percentage thresholds of Customer Orders in multiply-listed options based on national volume. There are two Categories, A and B, of transactions eligible for rebates. In Category A, rebates are paid to members executing electronically-delivered Customer Simple Orders in Penny Pilot Options and Customer Simple Orders in Non-Penny Pilot Options in Section II symbols.[4] In Category B, rebates are

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] Common ownership is defined in the Preface to the Pricing Schedule as [sic] member organizations under 75% common ownership or control.

[4] Rebates are paid on PIXL Orders in Section II symbols that execute against non-Initiating Order interest, except in the case of Customer PIXL Orders that are greater than 999 contracts. All Customer

paid to members executing electronically-delivered Customer Complex Orders in Penny Pilot Options and Non-Penny Pilot Options in Section II symbols.[5] The Exchange bases a market participant's qualification for a Customer Rebate Tier on the percentage of total national customer volume in multiply-listed options that are transacted monthly on Phlx. To determine the applicable rebate, the Exchange totals Customer volume in Multiply Listed Options[6] (including options overlying the SPDR S&P 500 (''SPY''))[7] that are electronically-delivered and executed, except volume associated with electronic Qualified Contingent Cross (''QCC'') Orders.[8] Today, the Customer Rebate Tiers[9] are as follows:[10]

Customer rebate tiers	Percentage thresholds of national customer volume in multiply-listed equity and ETF options classes, excluding SPY options (monthly)	Category A	Category B
Tier 1	0.00%–0.75%	$0.00	$0.00
Tier 2	Above 0.75%–1.60%	0.12	0.17
Tier 3	Above 1.60%–2.50%	0.14	0.17
Tier 4	Above 2.50%	0.15	0.17

The Exchange proposes to offer Phlx members the opportunity to earn a higher rebate on Phlx by transacting a quantity of electronically delivered and executed Multiply Listed Customer volume that is equal to or greater than 2.5% percent of national customer volume in multiply-listed options. The Exchange desires to incentivize its members to achieve this type of volume by offering to aggregate Customer volume transacted on Phlx with volume transacted on NOM and/or BX Options for the sole purpose of measuring the volume criteria. Phlx would pay the additional $0.02 per contract rebate, above and beyond other Customer rebates, on all eligible orders[11] transacted on Phlx by the qualifying member organization.[12] The Exchange believes that the additional rebate would lower costs to transact business on Phlx and increase the volume of Customer orders directed to and executed on Phlx, to the benefit of all other market participants on Phlx.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act[13] in general, and furthers the objectives of Section 6(b)(4) and (b)(5) of the Act[14] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Phlx operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In analyzing the market for non-core market data, the Commission developed a framework for analyzing whether market data fees are equitable, fair and reasonable, and not unreasonably discriminatory.[15] NASDAQ [sic] believes that the analytical framework adopted in the ArcaBook order with respect to non-core market data is equally applicable to exchange transaction fees, which must also be reasonable, equitably allocated, and not unfairly discriminatory in order to be consistent with the Act. As the Commission found:

If competitive forces are operative, the self-interest of the exchanges themselves will work powerfully to constrain unreasonable or unfair behavior. . . . [W]hen an exchange is subject to competitive forces in its distribution of non-core data, many market participants would be unlikely to purchase the exchange's data products if it sets fees that are inequitable, unfair, unreasonable, or unreasonably discriminatory. As a result, competitive forces generally will constrain an exchange in setting fees for non-core data because it should recognize that its own profits will suffer if it attempts to act unreasonably or unfairly. For example, an exchange's attempt to impose unreasonably or unfairly discriminatory fees on a certain category of customers would likely be counter-productive for the exchange because, in a competitive environment, such customers generally would be able to respond by using alternatives to the exchange's data. The Commission therefore believes that the existence of significant competition provides a substantial basis for finding that the terms of an exchange's fee proposal are equitable, reasonable, and not unreasonably or unfairly discriminatory.[16]

PIXL Orders that are greater than 999 contracts will be paid a rebate regardless of the contra-party to the transaction. PIXL is the Exchange's price improvement mechanism known as Price Improvement XL or (PIXL[SM]). *See* Rule 1080(n). A member may electronically submit for execution an order it represents as agent on behalf of a public customer, broker-dealer, or any other entity (''PIXL Order'') against principal interest or against any other order (except as provided in Rule 1080(n)(i)(E)) it represents as agent (''Initiating Order''), provided it submits the PIXL order for electronic execution into the PIXL Auction (''Auction'') pursuant to Rule 1080. *See* Exchange Rule 1080(n).

[5] Rebates are paid on PIXL Orders in Section II symbols that execute against non-Initiating Order interest, except in the case of Customer PIXL Complex Orders that are greater than 999 contracts. All Customer PIXL Complex Orders that are greater than 999 contracts will be paid a rebate regardless of the contra-party to the transaction.

[6] A Multiply Listed security means an option that is listed on more than one exchange.

[7] SPY is a Multiply Listed Option that is priced differently on Phlx as compared to other Multiply Listed Option symbols. *See* Section I of the Pricing Schedule.

[8] A QCC Order is comprised of an order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Rule 1080(o)(3), coupled with a contra-side order to buy or sell an equal number of contracts. The QCC Order must be executed at a price at or between the National Best Bid and Offer (''NBBO'') and be rejected if a Customer order is resting on the Exchange book at the same price. A QCC Order shall only be submitted electronically from off the floor to the PHLX XL II System. *See* Rule 1080(o). *See also* Securities Exchange Act Release No. 64249 (April 7, 2011), 76 FR 20773 (April 13, 2011) (SR-Phlx-2011–47) (a rule change to establish a QCC Order to facilitate the execution of stock/option Qualified Contingent Trades (''QCTs'') that satisfy the requirements of the trade-through exemption in connection with Rule 611(d) of the Regulation NMS).

[9] The Exchange recently filed a rule change to amend the percentage threshold requirements in Tiers 3 and 4 as of November 1, 2013. *See* SR-Phlx-2013–108 (not yet published).

[10] Members and member organizations under Common Ownership may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates.

[11] Orders that are eligible for Customer rebates are specified in Section B of the Exchange's Pricing Schedule.

[12] A member organization, together with its affiliate under Common Ownership, that qualifies for any rebate tier in the Customer Rebate Program in Section B of the Pricing Schedule, will have the opportunity to increase the applicable Customer rebate by $0.02 per contract on Phlx.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4), (5).

[15] Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR–NYSEArca–2006–21) (''ArcaBook Order''), *vacated on other grounds, NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010) (''*NetCoalition I*'').

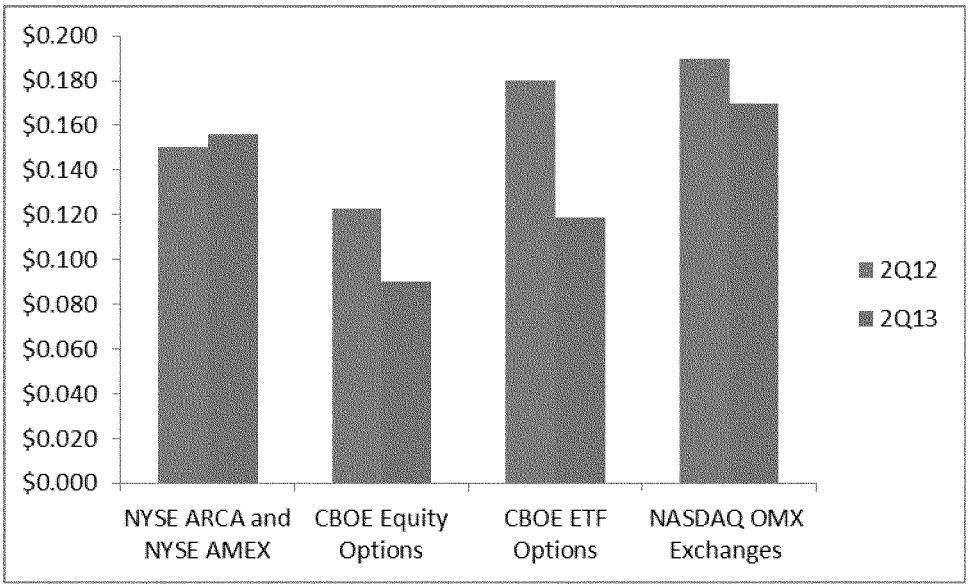
[16] ArcaBook Order, 73 FR at 74781–74782.

This reasoning applies with equal weight to transaction fees, since members that believe fees at a particular venue to be unreasonable, inequitable, or unfairly discriminatory are able to respond by using the numerous competitive alternatives that exist. Moreover, although the Court of Appeals for the District of Columbia Circuit vacated the ArcaBook Order because it concluded that the record before it in that case did not adequately support the Commission's determination that the market for depth-of-book data was competitive, the Court's opinion endorsed the Commission's view that the existence of competitive markets may be used as the basis for concluding that a fee is consistent with the requirements of the Act.

The petitioners believe that the SEC's market-based approach is prohibited under the Exchange Act because the Congress intended ''fair and reasonable'' to be determined using a cost-based approach. The SEC counters that, because it has statutorily-granted flexibility in evaluating market data fees, its market-based approach is fully consistent with the Exchange Act. We agree with the SEC.[17]

Thus, in analyzing the consistency of a fee change with the Act, NASDAQ [sic] believes that it is justified in analyzing, first and foremost, the competitive nature of the market in which the fee is adopted.

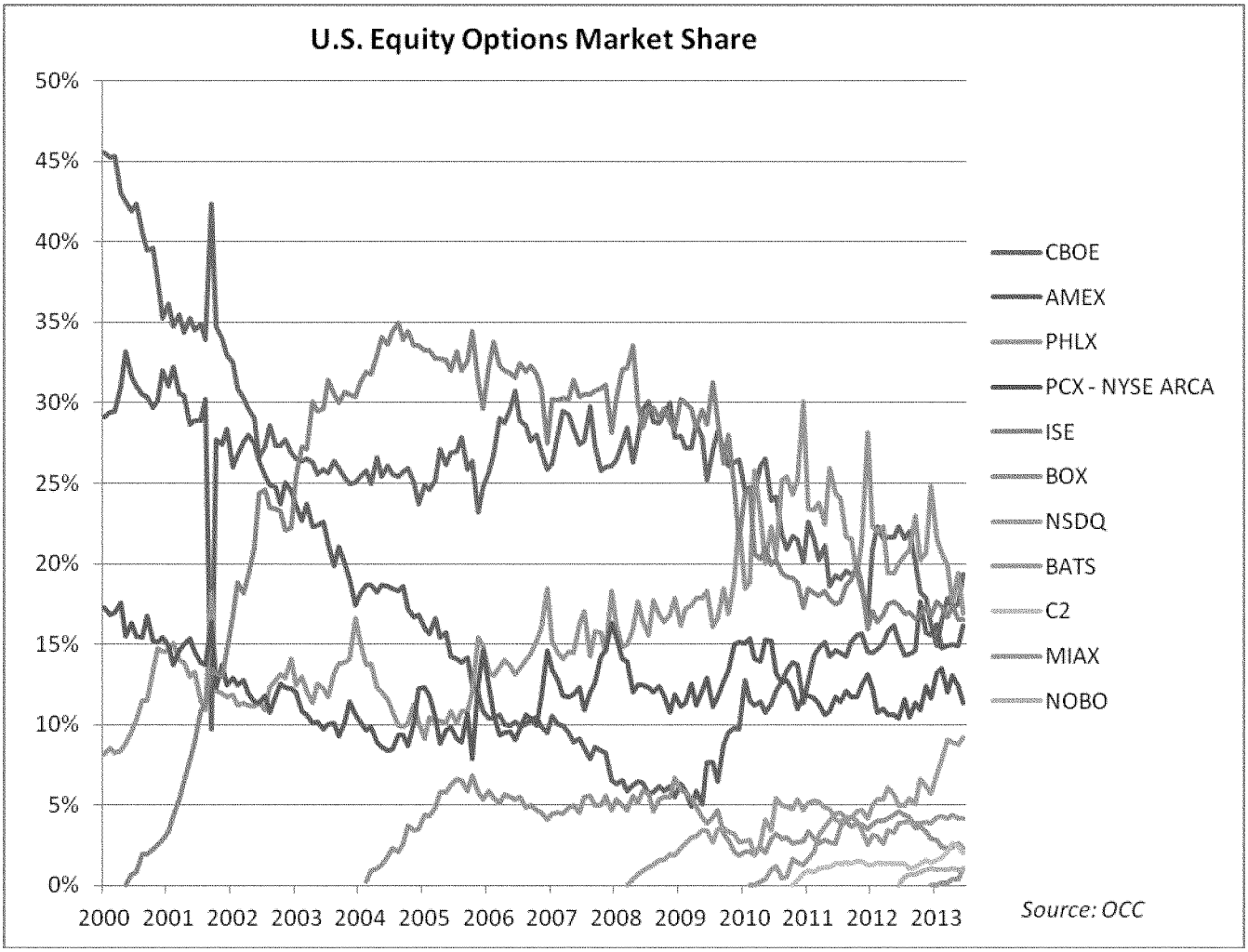
The Exchange operates in a highly competitive market, comprised of twelve exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates to be inadequate.[18] Accordingly, in order to remain competitive in its efforts to attract order flow, the Exchange must offer market participants an attractive trading platform, responsive customer service, and effective management tools, in addition to competitive fees and liquidity rebates. Price competition is a central component of the competition for order flow. As part of this competition, the NASDAQ OMX exchanges have modified options trading fees monthly or even bi-monthly to attract new order flow, retain existing order flow, and regain order flow lost to competitors' price cuts. In 2012, PHLX, NOM and BX Options filed 72 execution fee changes. As one would expect in a competitive market, the overall effect of these fee changes has been to lower options trading costs, benefitting investors and promoting the goals of the Securities Exchange Act of 1934. For example, based on publicly available data, average revenue per contract has generally declined for major options market operators as they compete for order flow. The following table illustrates the results of that competition.



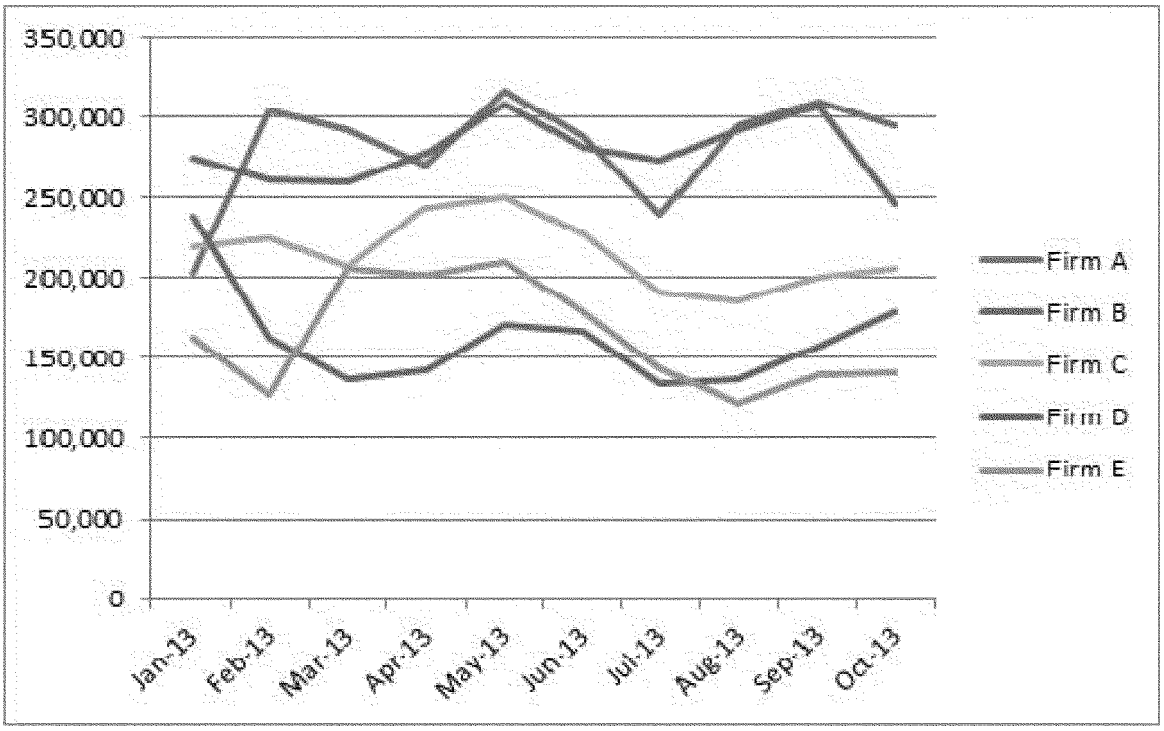
Empirical evidence also demonstrates that no exchange has market power sufficient to raise prices for competitively-traded options in an unreasonable or unfairly discriminatory manner in violation of the Exchange Act. In actuality, it is member firms that control the order flow that options markets compete to attract. Only by attracting members' orders can options exchanges display bids and offers that are the sine qua non of trade executions. This ''second-order'' competition—where competition is driven by customers rather than sellers of a product—is reflected both in the large number of pricing-related rule changes and also in rapid shifts of market share among multiple effective competitors seen on the chart of equity options market share below.

[17] *NetCoalition I,* 615 F.3d at 534.

[18] ''No one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' *NetCoalition I,* 615 F.3d at 539 (quoting ArcaBook Order, 73 FR at 74782–74783). Although the Court and the SEC were discussing the cash equities markets, NASDAQ believes that, as discussed above, these views apply with equal force to the options markets.



This level of competition is also readily apparent in the behavior of market participants with respect to the Customer orders that are the subject of this filing. The chart below shows fluctuations in the volume of Customer orders routed to the NASDAQ OMX exchanges by their top five member organizations since the beginning of 2013. As is apparent from the chart, fluctuations in volume of more than 50% occur, as member organizations respond to varying pricing incentives.



The Commission has a statutory duty to promote competition, including price competition. The Commission's traditional restraint in regulating fees has fostered intense competition that benefits investors and all market participants greatly. In mature markets where competition is vibrant, pricing changes are often the most effective way for markets to compete vigorously. Where participants view pricing on one options market as unpalatable, they are free to move business to another market or markets with favorable pricing, and in fact do so with regularity, as demonstrated by the empirical data provided above. Price competition works best where a variety of different models and pricing schemes exist from which to choose and market participants are highly knowledgeable about alternatives.

Diversity in the products and services offered by market participants enhances competition and benefits consumers. To establish policies that artificially enforce price uniformity would (i) eliminate incentives for innovative market participants to invest in providing desirable products, (ii) foster marketplace stagnation, and (iii) run directly contrary to sound policy.[19] When Congress charged the Commission with supervising the development of a ''national market system'' for securities, a premise of its action was that prices ordinarily would be determined by market forces.[20] Consistent with this purpose, Congress and the Commission have repeatedly stated their preference for competition, rather than regulatory intervention, to determine prices, products, and services in the securities markets.[21]

Against this background, which establishes that exchange transaction fees should be presumed reasonable, equitable, and not unfairly discriminatory, Phlx now turns to a particularized analysis of the proposed rebate that is the subject of this filing. In doing so, Phlx notes that the ArcaBook Order cited the possibility that even in a competitive market, a fee might be subject to disapproval if ''there is a substantial countervailing basis for determining that a proposal is inconsistent with the Act.'' [22] By way of example, the Commission theorized that such a basis might exist in the case of an exchange proposal that seeks to ''penalize market participants for trading in markets other than the proposing exchange'' because it might constitute ''unreasonable and unfair discrimination.'' [23] Although the issue was not before it, the Commission also ventured that ''the Exchange Act precludes *anti-competitive tying* of the liquidity pools of separately registered national securities exchanges even if they are under common control.'' [24] As discussed in greater detail below, although the proposal considers volume on NOM and BX Options in determining whether a member organization is eligible for a rebate on Phlx, the proposal at issue is not tying, because

[19] *See, e.g., United States* v. *Microsoft Corp.,* 147 F.3d 935, 948 (D.C. Cir. 1998) (''Antitrust scholars have long recognized the undesirability of having courts oversee product design, and any dampening of technological innovation would be at cross purposes with antitrust law.'').

[20] *See, e.g.,* H.R. Rep. No. 94–229, at 92 (1975) (Conf. Rep.) (stating Congress's intent that the ''national market system evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed'').

[21] *See* S. Rep. No. 94–75, 94th Cong., 1st Sess. 8 (1975) (''The objective [in enacting the 1975 amendments to the Exchange Act] would be to enhance competition and to allow economic forces, interacting within a fair regulatory field, to arrive at appropriate variations in practices and services.''); ArcaBook Order, 73 FR at 74781 (''The Exchange Act and its legislative history strongly support the Commission's reliance on competition, whenever possible, in meeting its regulatory responsibilities for overseeing the SROs and the national market system. Indeed, competition among multiple markets and market participants trading the same products is the hallmark of the national market system.''); Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7–10–04) (''Regulation NMS Adopting Release'') (observing that national market system regulation ''has been remarkably successful in promoting market competition in [the] forms that are most important to investors and listed companies'').

[22] ArcaBook Order, 73 FR at 74782.

[23] *Id. See also* Securities Exchange Act Release No. 65362 (September 20, 2011), 76 FR 59466 (September 26, 2011) (SR–NASDAQ–2011–010) (decision pursuant to delegated authority to disapprove proposal to discount market data fees for NASDAQ market participants), *petition for Commission review granted by* Securities Exchange Act Release No. 66667 (March 28, 2012), 77 FR 20079 (April 3, 2012).

[24] ArcaBook Order, 73 FR at 74790 (emphasis added).

the Phlx member organization is not required to use NOM or BX Options at all in order to receive the rebate. Similarly, the proposal is not anti-competitive, because Phlx lacks market power, and because the proposal is a price incentive paid by Phlx to Phlx member organizations with respect to orders executed on Phlx, just like any other exchange price discount. Moreover, in discussing why anti-competitive tying between two exchanges would present concerns, the Commission stated that ''a proposed exchange rule must stand or fall based, among other things, on the interests of customers, issuers, broker-dealers, and other persons using the facilities of *that exchange.''* [25] In other words, Phlx must explain why its proposal is in the best interests of Phlx's members to enable the Commission to determine that a countervailing basis does not exist for concluding that the proposal is inconsistent with the Act in any respect. For the reasons discussed below, Phlx believes that the proposal readily meets these standards.

The Proposal Is Consistent With the Requirement That Phlx Fees Must Be Reasonable

The Exchange's proposal is reasonable because it provides an opportunity for market participants to receive greater rebates and therefore enables them to lower costs. In this respect, the proposal should be considered, like any fee decrease or rebate increase, presumptively consistent with the requirement that exchange fees must be reasonable, since trading costs will be lower following implementation of the proposal than before. Since existing fees are themselves the product of the intense competition described above, it is difficult to see how a fee decrease or rebate increase could in any set of circumstances cause fees to become unreasonable. Moreover, because the rebate is specific to Customer orders transacted on Phlx, it benefits retail investors when member organizations choose to pass on some portion of the rebate to their customers. Finally, Phlx notes that the proposal does not restrict any existing rebates or increase any other fees, and therefore will not place any market participants that do not qualify for the rebate in a less favorable position than under the existing Pricing Schedule. However, as discussed below, to the extent that the proposal succeeds in its competitive goal of attracting more Customer orders to the Exchange, it has the potential to benefit all Phlx market participants.

[25] ArcaBook Order, 73 FR at 74793.

The Proposal Is Consistent With the Requirement That Phlx's Fees Provide for an Equitable Allocation of Fees

The Exchange's proposal is consistent with an equitable allocation of fees because it benefits not only market participants receiving the proposed rebate, but has the potential to benefit all other Phlx market participants as well. Specifically, the proposal is intended to attract a larger amount of Customer liquidity to the Exchange. Today, Phlx offers members certain Customer rebates to encourage Phlx member organizations to direct Customer order flow to the Exchange, and the proposal will provide an additional incentive for Customer order flow. Customer liquidity benefits all market participants by providing more trading opportunities, which attract Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The proposed rebate is structured as a volume-based discount, similar to the existing rebate tiers in Section B of the Pricing Schedule. The Commission has previously accepted such volume tiers, and they have been adopted by various options exchanges. Tiers are a well-established method for drawing liquidity to an exchange by paying higher rebates to those members that direct a greater amount of order flow to the Exchange. Volume tiers in both the cash equity and options markets provide reduced pricing to the heaviest liquidity providers and liquidity takers. As with existing tiers, the higher the percentage of a market participant's Customer orders on Phlx, the higher the rebate. However, the aspect of the proposal under which a member organization's eligibility is determined by volume on all of the NASDAQ OMX exchanges broadens the potential availability of a higher rebate to market participants that spread volume across multiple exchanges, rather than requiring a concentration of activity on Phlx. Market participants with Customer order flow often divide that order flow among Phlx, NOM and BX Options, as well as other options exchanges; due to the different market and pricing models available at various exchanges, dividing order flow may allow them to improve execution quality and to minimize costs. For example, a market participant that wants to transact contracts in SPY under a pro rata allocation would necessarily send order flow to Phlx, rather than NOM or BX Options, because Phlx offers such a pro rata allocation.[26] NOM and BX Options would allocate the same SPY transaction using a price-time execution algorithm.[27] Similarly, each exchange offers an array of services in order to accommodate the wide array of demands that market participants represent on behalf of investors. Finally, because different pricing incentives are available on different exchanges, firms may divide order flow in order to minimize trading costs. One exchange's technology and one exchange's array of services may not be adequate to meet the needs of all investors in all circumstances. A one-size-fits-all pricing mechanism would not reflect the reality of those market participants who represent a diverse set of investors' demands.

Therefore, recognizing Customer orders on other NASDAQ OMX exchanges for purposes of determining volume is aimed at providing market participants an incentive that does not make unreasonable demands to send all order flow to Phlx, but rather permits those market participants to seek different economics and execution models while still receiving the benefit of an additional rebate for those Customer orders that are transacted on Phlx. Thus, the rebate is an equitable means of incentivizing a member with large quantities of Customer orders to increase the amount of Customer order flow transacted on Phlx, even though the current market structure requires it to fragment Customer orders in its efforts to improve execution quality and reduce execution costs across its total book of orders. Through the proposal, the Exchange seeks to reduce distortionary incentives created by one-size-fits-all pricing by including Customer volumes traded on NOM and BX Options in determining eligibility for the Phlx rebate.

The Proposal Is Not Unfairly Discriminatory

The Exchange's proposal is not unfairly discriminatory. As discussed above, the proposal broadens the availability of an enhanced rebate because it does recognize that market participants with high volumes of Customer orders may need to fragment their order flow among options markets to improve execution quality and lower costs by taking advantage of different market structures and pricing options.

[26] *See* Phlx Rule 1080.

[27] *See* NOM and BX Options Rules at Chapter VI, Section 7. BX Options utilizes a price-time execution, as specified on BX Options' system setting page located at: *http://www.nasdaqomx trader.com/Content/TechnicalSupport/BXOptions_SystemSettings.pdf.*

Similar to current volume tiers on Phlx and volume tiers at other options exchanges, the value of the incentive received for Customer orders executed on Phlx increases as the volume of qualifying orders *on Phlx* increases. Any Phlx market participant may qualify for the Customer Rebate Program. Those Phlx members that are able to aggregate their Customer volume and achieve high national customer volume on Phlx already benefit by receiving rebates for that Customer volume when transacted on Phlx. This proposal seeks to incentivize those members to send more Customer volume to Phlx in order to receive an enhanced rebate paid only with respect to orders on Phlx, while permitting them to aggregate Customer volume across NASDAQ OMX exchanges for purposes of determining eligibility for the rebate. Therefore, the proposal does not discriminate among Phlx members that control high volumes of Customer orders, but rather incentivizes them to execute as many Customer orders as possible on Phlx in order to receive the benefit of the rebate on those orders; moreover, the proposal does not require them to fragment their Customer orders to achieve this goal, but neither does it discriminate against them by denying eligibility for the higher rebate if they do in fact direct order flow away from Phlx. Thus, this proposal provides market participants the ability to achieve lower costs without compromising their execution obligations. Fundamentally, however, the proposed incentive rewards market participants for directing a greater number of Customer orders to Phlx, just as is the case with existing tier structures at Phlx and other options markets.[28]

To the extent that they offer better pricing to higher volume members, existing tier structures that exist at Phlx and other options markets are inherently discriminatory, but this discrimination has been widely accepted as not *unfairly* discriminatory because it incentivizes greater usage of the market offering the pricing tier, thereby benefitting the market's viability and providing liquidity benefits to other market participants at that market.[29]

Specifically, options exchanges have filed and continue to file rule filings with the Commission proposing fees and rebates that create price differentiations and segmentations; Phlx believes that such differentiations exist in mature healthy competitive markets such as the options market, because pricing is a key means by which exchange participants compete with one another. Today, various options exchanges segment pricing related to Multiply Listed Options as compared to Singly Listed Options.[30] Penny Pilot Options [31] are also assessed different fees and paid different rebates [32] as compared to Non-Penny Options.[33] Options exchanges differentiate fees for options transacted in open outcry [34] as compared to electronic transactions.[35] A Phlx member transacting Customer orders on the floor is not entitled to the Customer Rebate Program described herein because that program applies only to electronic transactions.[36] Indeed, the Exchange today differentiates various aspects of floor and electronic pricing.[37] Other types of differentials include Simple versus Complex Orders; [38] auction [39] versus non-auction orders; [40] opening transactions [41] versus regular hours trading; order types; [42] floor facilitation [43] versus non-agency

[28] *See* Phlx's Pricing Schedule, NOM at Chapter IV, Section 2, NYSE Arca's Fee Schedule, NYSE MKT's Fee Schedule, Chicago Board Options Exchange, Incorporated's (''CBOE'') Fees Schedule, MIAX's Fee Schedule, BATS BZX's Fee Schedule, Gemini's Fee Schedule, C2's Options Exchange, Incorporated (''C2'') Fee Schedule and ISE's Fee Schedule.

[29] Arguably, a uniform fee schedule in which all members pay the same fee would also be discriminatory, because it would fail to recognize reasoned bases for reflecting in the fees that members pay their differing contributions to the quality of the market. It may be helpful to understand ''unfair discrimination'' as discrimination based on factors other than competition, such as pricing designed to exclude or impair a class of participants.

[30] Singly Listed Option means an option that is only listed on the Exchange and is not listed by any other national securities exchange.

[31] The Penny Pilot was established in January 2007; and in October 2009, it was expanded and extended through December 31, 2013. *See* Securities Exchange Act Release Nos. 55153 (January 23, 2007), 72 FR 4553 (January 31, 2007) (SR–Phlx–2006–74) (notice of filing and approval order establishing Penny Pilot); 60873 (October 23, 2009), 74 FR 56675 (November 2, 2009) (SR–Phlx–2009–91) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60966 (November 9, 2009), 74 FR 59331 (November 17, 2009) (SR–Phlx–2009–94) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61454 (February 1, 2010), 75 FR 6233 (February 8, 2010) (SR–Phlx–2010–12) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62028 (May 4, 2010), 75 FR 25890 (May 10, 2010) (SR–Phlx–2010–65) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 62616 (July 30, 2010), 75 FR 47664 (August 6, 2010) (SR–Phlx–2010–103) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 63395 (November 30, 2010), 75 FR 76062 (December 7, 2010) (SR–Phlx–2010–167) (notice of filing and immediate effectiveness extending the Penny Pilot); 65976 (December 15, 2011), 76 FR 79247 (December 21, 2011) (SR–Phlx–2011–172) (notice of filing and immediate effectiveness extending the Penny Pilot); 67326 (June 29, 2012), 77 FR 40126 (July 6, 2012) (SR–Phlx–2012–86) (notice of filing and immediate effectiveness extending the Penny Pilot); 68534 (December 21, 2012), 77 FR 77174 (December 31, 2012) (notice of filing and immediate effectiveness extending the Penny Pilot); and 69786 (June 18, 2013), 78 FR 37863 (June 24, 2013) (SR–Phlx–2013–64) (notice of filing and immediate effectiveness extending the Penny Pilot). *See also* Exchange Rule 1034.

[32] *See* Phlx's Pricing Schedule, NOM Pricing at Chapter IV, Section 2, ISE's Fee Schedule, CBOE's Fees Schedule, NYSE MKT's Fee Schedule, BATS BZX's Fee Schedule, MIAX's Fee Schedule, Gemini's Fee Schedule and NYSE Arca's Fee Schedule.

[33] Non-Penny Pilot refers to options classes not in the Penny Pilot.

[34] The Exchange has Rules in place which govern the submission of Orders in an open outcry market for execution. *See* Exchange Rules 110, 155, 1000, 1014, 1033, 1060, 1063, 1064, 1066, 1080 and Options Floor Procedure Advices C–1, C–2, C–3, F–2 and F–14. *See also* NYSE MKT and NYSE ARCA's Fee Schedule.

[35] Electronically delivered orders do not include orders delivered through the Floor Broker Management System.

[36] *See* Section B of the Phlx Pricing Schedule.

[37] *See* Section II of the Phlx Pricing Schedule, CBOE's Fee Schedule, NYSE Arca's Fee Schedule and NYSE MKT's Fee Schedule.

[38] A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced at a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. Furthermore, a Complex Order can also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying stock or exchange-traded fund (''ETF'') coupled with the purchase or sale of options contract(s). *See* Exchange Rule 1080, Commentary .08(a)(i). *See also* Section I of the Exchange's Pricing Schedule. *See also* CBOE's Fees Schedule, ISE's Fee Schedule, NYSE Arca's Fee Schedule, C2's Fee Schedule and NYSE MKT's Fee Schedule.

[39] PIXL is the Exchange's price improvement mechanism known as Price Improvement XL or (PIXL℠). *See* Rule 1080(n). A member may electronically submit for execution an order it represents as agent on behalf of a public customer, broker-dealer, or any other entity (''PIXL Order'') against principal interest or against any other order (except as provided in Rule 1080(n)(i)(E)) it represents as agent (''Initiating Order'') provided it submits the PIXL order for electronic execution into the PIXL Auction (''Auction'') pursuant to Rule 1080. *See* Exchange Rule 1080(n). COLA is the automated Complex Order Live Auction process. A COLA may take place upon identification of the existence of a COLA-eligible order either: (1) Following a COOP, or (2) during normal trading if the Phlx XL system receives a Complex Order that improves the cPBBO. *See* Exchange Rule 1080. *See also* CBOE's Fees Schedule and ISE's Fee Schedule.

[40] *See* Phlx's Pricing Schedule, CBOE's Fees Schedule, ISE's Fee Schedule, NYSE Arca' Fees Schedule and BATS BZX's Fee Schedule.

[41] *See* Exchange Rule 1017. *See also* Section II of the Exchange's Pricing Schedule.

[42] For example, a Qualified Contingent Cross (''QCC'') Order, which is an order comprised of an order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Rule 1080(o)(3), coupled with a contra-side order to buy or sell an equal number of contracts, has different pricing compared to other types of order types. *See* Section II of the Exchange's Pricing Schedule.

[43] *See* Exchange Rule 1064. The Exchange offers certain fee waivers for floor facilitation transactions at Section II of the Exchange's Pricing Schedule. *See also* NYSE MKT's Fee Schedule.

transactions; directed [44] versus non-directed orders; [45] pricing by market participant; [46] Payment for Order Flow [47] and fee caps.[48] In addition, there are other examples of market segmentation evidenced today in fees assessed by other SROs. Similarly, in the area of market data various differentiations exist, such as displayed versus non-displayed quotes/orders,[49] professional and non-professional user data [50] and proprietary [51] versus consolidated market data.

In light of this wide-ranging degree of differentiation, the Exchange submits that its proposal does not materially alter the degree of differential pricing among Phlx market participants. Just as the foregoing pricing differentials exist to encourage and reward market participants for making order flow and other purchasing decisions that benefit the Exchange, its market structure, and/or other market participants, likewise the proposed rule change serves to incentivize order routing decisions with respect to Customer orders that benefit the Exchange and its participants. With this proposal, members are not required to transact any volume on other options exchanges. In fact, the more volume they transact on Phlx, the greater the reward, as only qualifying Customer orders *executed* on Phlx are entitled to the rebate. However, the proposal does not discriminate against members that choose to direct orders to other options markets. By way of example, the proposal is structured so that the maximum benefit occurs for market participants who execute 2.5% or more of national customer volume and are able to execute it all on Phlx. Such a participant would receive an additional $0.02 per contract rebate for all its eligible volume transacted on Phlx. If a market participant believes that it would better meet its best execution obligation to a Customer by displaying orders on a market with a different fee or market structure, such as NOM, the participant can do so and will not receive the additional $0.02 per contract rebate for any execution that results on NOM, but would still be able to benefit from those NOM Customer orders by receiving a rebate on Customer orders executed on Phlx which may qualify for an enhanced rebate. Thus, the participant is not penalized from an eligibility standpoint by its incidental usage of NOM or BX Options.[52]

If all of the participant's Customer volume was transacted solely on NOM, then the market participant would not receive a Phlx rebate, which is not surprising, since it is not bringing order flow to Phlx; it would, however, still be eligible for any rebate that is offered on NOM. Thus, a participant transacting volume on NOM is in no worse position with the proposal. Today, a NOM Participant that transacted a large amount of volume on NOM to benefit from the rebate structure offered on that market would only receive rebates on Phlx for those orders transacted on Phlx. With this proposal, the NOM Participant still benefits from the current NOM pricing without change, but will have the added benefit of possibly qualifying for a rebate on Phlx for any orders that were transacted on Phlx. Because the benefit only attributes to orders on Phlx, as is the case today, there is no change in circumstance for the NOM Participant. In fact, the NOM Participant that necessarily had Customer orders routed to Phlx because that market was at the best price, with this proposal may receive an added benefit on Phlx by qualifying for a rebate on that market because of the Customer orders transacted on NOM. Moreover, as discussed above, the Commission stated that ''a proposed exchange rule must stand or fall based, among other things, on the interests of customers, issuers, broker-dealers, and other persons using the facilities of *that exchange.''* [53]

In this instance, the proposal is unambiguously beneficial to Phlx market participants, whether or not they receive the enhanced rebate. With respect to two members transacting orders on Phlx, the proposal is not materially different from current differentiations. Today, the Exchange assesses different fees and pays different rebates to two Phlx members that transact the same number of Customer orders on the Exchange, if one Exchange member transacted those orders on the Exchange floor and the other member transacted those orders electronically. Only the electronic Customer orders would potentially qualify for a Customer rebate pursuant to Section B of the Pricing Schedule. Also, only certain types of orders in Categories A and B qualify for the Customer Rebate today, so depending on the types of electronic orders transacted by a Phlx member, one member may qualify for a Customer rebate while another member with the same number of Customer orders may not qualify for a rebate. Finally, two members on Phlx may transact Customer orders today, but

[44] An order that is ''directed'' is one that is directed by an Order Flow Provider to a specific Market Maker or Specialist when that order is entered electronically into PHLX XL II. The term ''Order Flow Provider'' means any member or member organization that submits, as agent, orders to the Exchange. *See* Rule 1080(l)(i)(B).

[45] *See* NYSE MKT's Fee Schedule and CBOE's Fees Schedule. Phlx also previously differentiated pricing on the basis of whether the order was directed.

[46] All options exchanges distinguish pricing by market participant.

[47] The Payment for Order Flow (''PFOF'') Program assesses fees to Specialists and Market Makers resulting from Customer orders (''PFOF Fees''). The PFOF fees are available to be disbursed by the Exchange according to the instructions of the Specialist or Market Maker to order flow providers that are members or member organizations that submit, as agent, Customer orders to the Exchange through a member or member organization that is acting as agent for those customer orders. Any excess PFOF funds billed but not utilized by the Specialist or Market Maker are carried forward unless the Specialist or Market Maker elects to have those funds rebated on a pro rata basis, reflected as a credit on the monthly invoices. At the end of each calendar quarter, the Exchange calculates the amount of excess funds from the previous quarter and subsequently rebates excess funds on a pro-rata basis to the applicable Specialist or Market Maker that paid into that pool of funds. There are no Payment for Order Flow Fees on trades that are not delivered electronically. *See* Phlx's Pricing Schedule and CBOE's Fees Schedule.

[48] Today the Exchange has in place a fee cap for Specialists and Market Makers (''Monthly Market Maker Cap'') of $550,000 for: (i) Electronic and floor Option Transaction Charges; (ii) QCC Transaction Fees (as defined in Exchange Rule 1080(o)) and Floor QCC Orders, as defined in 1064(e)); and (iii) fees related to an order or quote that is contra to a PIXL Order or specifically responding to a PIXL auction. Also, the Exchange caps Firms up to a maximum fee of $75,000 (''Monthly Firm Fee Cap''). *See* Section II of the Exchange's Pricing Schedule. *See also* NYSE Arca's Fee Schedule (Firm and Broker-Dealer open outcry executions are capped).

[49] *See* Nasdaq Rule 7018.

[50] *See* Nasdaq Rule 7026.

[51] *See* Nasdaq Rule 7039.

[52] Of course, volume on exchanges other than Phlx, NOM, and BX Options would not qualify. The Exchange believes that it is not unfairly discriminatory to recognize volume on its affiliates but not other exchanges. Specifically, volume on NOM and BX Options benefits Phlx by contributing to the overall financial well-being of the exchange group of which Phlx is a part. It is reasonable, equitable and not unfairly discriminatory to lower costs for market participants transacting orders on Phlx by offering these market participants the ability to qualify for lower pricing realized by leveraging NASDAQ OMX's various options exchange offerings that are available to market participants to provide greater flexibility to market participants desiring to transact orders on NOM and BX Options. Requiring Phlx to provide favorable pricing to member organizations that meet the 2.5% volume requirement by directing orders to, for example, CBOE would make as little sense as stipulating that a member organization could meet existing Phlx tiers by executing orders on CBOE. Phlx submits that the Act does not require such an illogical result. Moreover, as discussed in more detail below, the Phlx proposal does not tie the use of Phlx to NOM or BX Options, because usage of those exchanges is not required, and in any event, reduces the aggregate rebate paid by Phlx. Moreover, because Phlx lacks market power, it cannot in any event use the proposal to extend market power to its affiliates. Finally, Customer orders which are executed on NOM and BX Options will continue to benefit the market participants on those markets because that order flow will provide liquidity to NOM and BX Options respectively and participants on those markets may interact with that order flow.

[53] ArcaBook Order, 73 FR at 74793.

depending on the number of qualifying Customer orders, one member may qualify for Customer Rebate Tier 1 and the other member may qualify for Customer Rebate Tier 2. In this scenario, Tier 1 does not pay a rebate and Tier 2 of the Section B Customer Rebate Program does pay a rebate; therefore one member would receive a rebate while another member would not receive a rebate, due to differences in volume. In other words, the proposed enhanced rebate does not create a pricing differential as between two Phlx members that is different from differentials that exist today. The proposal would differentiate market participants based on the volume of qualifying Customer orders that are transacted *on Phlx,* and that is already the case today with the existing Customer rebate tiers as well as other pricing.

The Proposal is Similar to Other SRO Rules

The Commission already permits a particular trading venue to consider volume executed away from that venue for fee calculation purposes. For example, under NOM's pricing schedule, participants that add (1) Customer and/or Professional liquidity of 25,000 or more contracts per day in a month on NOM, (2) qualify for the Investor Support Program set forth in Rule 7014 with respect to NASDAQ's cash equity market, and (3) execute at least one order on NASDAQ's cash equity market, qualify for a Tier 5 Customer and/or Professional rebate on NOM.[54] Thus, NOM's rebate permits a NOM Participant to qualify for an options rebate based on its activity in both options and cash equities markets. Another example of a fee imposed by exchanges that considers volume on other exchanges is the options regulatory fee or ''ORF,'' which is assessed by many options exchanges.[55] ORF is assessed on all transactions by member firms of an options exchange that are cleared in the customer range at The Options Clearing Corporation (''OCC'').[56] For example, if an OCC clearing member, ABC, is a member of Phlx, ABC pays ORF on all executed and cleared customer transactions regardless of where the trade executed. The ORF structure is not dependent on a transaction on a particular SRO; rather, it is based on transactions at other SROs.

There are also examples where qualifying volume is quantified in a different manner from the payment of a rebate. For example, Phlx members may qualify for a Customer rebate by including SPY volume in the calculation of qualifying orders for the purpose of calculating Customer rebate tiers, but Phlx does not pay Customer rebates on SPY volume as specified in the Customer Rebate Program.[57] Volume other than the volume on which the rebate is paid is considered for eligibility.

Equally important, offering discounts between affiliated exchanges is not novel. New York Stock Exchange LLC (''NYSE'') waives certain annual fees for issuers that transfer the listing of their primary class of common shares from NYSE Arca, Inc. (''NYSE Arca''), or NYSE MKT LLC (''NYSE MKT''), to NYSE (''NYSE Listing Incentive'').[58] The Exchange assesses issuers an Initial Application Fee of $25,000 in connection with applying to list an equity security except that, among other things, the fee is waived if an issuer transfers a listing of any class of equity security from another national securities exchange.[59] In a similar manner, this proposed rule change is premised on the principle that, in its efforts to provide greater competitive incentives, Phlx should be permitted to consider activity on other exchanges, given the need for member organizations to spread their Customer order flow across multiple exchanges in an effort to improve execution quality and reduce trading costs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As described above in considerable detail, the Exchange operates in a highly competitive market; in order to remain competitive the Exchange must offer market participants an attractive trading platform, customer service and effective management tools in addition to competitive fees and liquidity rebates to attract order flow to the market. It is the competitive forces present among options exchanges that constrain the Exchange's pricing by commanding pricing that is reasonable, equitable, fair and not unreasonably discriminatory if the Exchange hopes to attract order flow. The Exchange believes that its proposed pricing will not harm competition but rather will benefit market participants by lowering costs. Fundamentally, the proposal is a price reduction, and therefore is consistent with achieving the benefits of the robust competition that clearly exists in this market.

As discussed above, the ArcaBook Order stated that ''the Exchange Act precludes anti-competitive tying . . . of separately registered national securities exchanges even if they are under common control.'' [60] However, the proposal neither constitutes tying, nor is it anti-competitive in nature of effect. Tying is ''an agreement by a party to sell one product [the tying product] but only on the condition that the buyer also purchases a different (or tied) product, or at least agrees that he will not purchase that product from any other supplier.'' [61] Accordingly, a tying arrangement exists only where there is a *requirement* that two separate products be purchased together.[62] Thus, for example, if a supplier offers two separate products together in a bundle, there is no tying arrangement if the supplier also offers each product for purchase separately. This is true even if the supplier offers a discount for purchasing the bundle of products (which, obviously, is a commonplace offering found in all sorts of industries).[63] ''[W]here the buyer is free to take either product by itself[,] there is no tying problem even though the seller may also offer the two items as a unit at a single price.'' [64]

Even where there is a tying arrangement, such arrangements are not always (or even usually) unlawful. As the Supreme Court has explained, ''[i]t is clear . . . that not every refusal to sell two products separately can be said to restrain competition . . . . Buyers often find package sales attractive; a seller's decision to offer such packages can merely be an attempt to compete effectively.'' [65] Indeed, the judicial

[54] *See* NOM Rules at Chapter XV, Section 2.

[55] Today ORF is assessed by PHLX, NOM, CBOE, ISE, NYSE Arca, NYSE MKT, BOX Options Exchange LLC, MIAX, C2 and Gemini.

[56] ORF is also assessed on transactions executed at an options exchange by that options exchange.

[57] *See* Section B of the Exchange's Pricing Schedule.

[58] *See* NYSE Rules at Section 902.3.

[59] *Id.*

[60] ArcaBook Order, 73 FR at 74790.

[61] *N. Pac. Ry. Co.* v. *United States,* 356 U.S. 1, 5–6 (1958).

[62] *See, e.g., Paladin Assocs.* v. *Mont. Power Co.,* 328 F.3d 1145, 1159 (9th Cir. 2003) (''Essential to . . . a tying claim is proof that the seller *coerced* a buyer to purchase the tied product.'').

[63] *See, e.g., Warren Gen. Hosp.* v. *Amgen Inc.,* 2010 U.S. Dist. LEXIS 56220, at *2–3, *21–22 (D.N.J. June 7, 2010) (a ''pricing and rebate scheme'' that applies only when the buyer purchases both of the defendants' products is not a tie because the buyer may purchase either product by itself).

[64] *N. Pac. Ry. Co.,* 356 U.S. at 6 n.4; *accord Jefferson Parish Hosp. Dist. No. 2* v. *Hyde,* 466 U.S. 2, 12 (1984).

[65] *Jefferson Parish,* 466 U.S. at 11–12.

skepticism of tying arrangements that prevailed decades ago has given way to a general recognition that tying arrangements are often procompetitive and beneficial to consumers and competition, and that they therefore are not anticompetitive in most circumstances. For example, in 2006, a unanimous Supreme Court explained that ''[o]ver the years, this Court's strong disapproval of tying arrangements has substantially diminished.'' [66] Accordingly, absent proof that a tying arrangement creates foreclosure in the tied product market, the antitrust laws do not condemn tying arrangements.[67]

Because a tying arrangement can only run afoul of the antitrust laws where the arrangement harms competition by creating foreclosure in the tied product market, the Supreme Court has stated that ''in all cases involving a tying arrangement, the plaintiff must prove that the defendant has market power in the tying product.'' [68] This requirement makes good sense when considering the economic impact of a tying arrangement. If a supplier *lacking* market power attempts to condition the purchase of one product (the tying product) on the purchase of a second, unwanted product (the tied product), the supplier's customers will simply go elsewhere. There is no conceivable harm to competition in this scenario—the misguided supplier will simply lose business to its competitors. And, conversely, if customers desire the bundled offering—such that they buy the bundled products even when they are not forced to do so—that is a procompetitive outcome that benefits consumers, which is not condemned by the antitrust laws. It is only when the supplier has *market power* over the tying product that it can force customers to take the unwanted product and distort competition in the sale of the tied product, and it is therefore only in those circumstances that tying arrangements can violate the antitrust laws.[69]

As discussed above, empirical evidence demonstrates that the options market is a highly competitive market in which no exchange has market power sufficient to raise prices for competitively-traded options in an unreasonable or unfairly discriminatory manner in violation of the Exchange Act. Moreover, this proposal is not tying in any event, because (a) members may trade on any exchange, without having to trade on another exchange (*i.e.,* nothing is tied together), and (b) Phlx members can qualify for the offered rebate without even using another NASDAQ OMX exchange. The proposed rebate simply makes it easier for members to reach the Phlx rebate levels if they trade on another NASDAQ OMX exchange, but there is no requirement to do so. Historically Phlx market participants have transacted greater than 2.5% of Customer volume solely on Phlx. Thus, if the Commission accepts the compelling logic of the antitrust precedents discussed above, it is clear that the proposal could not be used in an anticompetitive manner to force unwilling market participants to conduct transactions on NOM or BX Options. Rather, as discussed extensively above, the proposal incentivizes market participants to execute as many Customer orders on Phlx as possible by reducing fees—an inherently pro-competitive result—without penalizing them for incidental usage of the other NASDAQ OMX exchanges. If the Commission nevertheless concludes that the proposal is inconsistent with the Act because it constitutes anti-competitive tying, Phlx believes that it must, as a minimum, demonstrate why the proposal is anti-competitive in effect when similar pricing incentives are viewed as pro-competitive under the antitrust laws. Put another way, if the Commission concludes that a pricing decrease adopted in a highly competitive market is *per se* anticompetitive merely because of its cross-market aspect, it must explain why this conclusion differs so dramatically from the analysis in established Supreme Court precedents.

The NASDAQ OMX exchanges offer complementary models that members and investors demand, and this proposal seeks to provide an opportunity for market participants to benefit from those complementary services. The Exchange competes for order flow by enhancing its technology and the array of services offered on its market, as well as offering rebates and assessing lower fees. Today, Phlx, NOM and BX Options offer market participants an array of services including state-of-the-art platforms. Phlx's trading platform executes orders utilizing a Customer priority, pro-rata execution algorithm. Phlx accepts Complex Orders [70] and QCC Orders and offers auctions for both Simple and Complex Orders.[71] Phlx also has robust options listings on its market, including index listing and various Singly Listed products. Today, Phlx lists 3,660 options contracts as compared to NOM which lists 2,411 options contracts and BX Options which lists 1,145 options contracts. NOM's trading platform executes orders utilizing a price time execution algorithm. NOM does not accept Complex Orders or QCC Orders and does not offer auctions. BX Options' trading platform executes orders utilizing a price time execution algorithm. Similar to NOM, BX Options does not accept Complex Orders or QCC Orders and does not offer auctions. For example, a market participant that transacts a Complex Order cannot do so on NOM or BX Options or certain other options exchanges for that matter. Thus, the proposal will ensure that the range of a member organization's business across these markets is considered for eligibility purposes.

The Exchange also does not believe that the proposal imposes a burden on competition with respect to Phlx members' status as members of NOM and/or BX Options. If a market participant believes that it would better meet its best execution obligation to a Customer by displaying orders on a market with a different fee structure, such as NOM, the participant can chose to take advantage of NOM's pricing structure instead. The market participant would not receive the additional $0.02 per contract rebate for any execution that results, but would still be able to benefit from those orders, which would be aggregated with qualifying Customer volume on Phlx and BX Options for purposes of determining if the member qualified for a rebate on Phlx. If all the volume was transacted solely on NOM, then that market participant would still be eligible for any rebate that is offered on

[66] *Ill. Tool Works* v. *Indep. Ink, Inc.,* 547 U.S. 28, 35 (2006).

[67] *See, e.g., id.; Jefferson Parish,* 466 U.S. at 13–14, 16.

[68] *Ill. Tool,* 547 U.S. at 46; *see also Jefferson Parish,* 466 U.S. at 13–14 (''we have condemned tying arrangements when the seller has some special ability—usually called 'market power'—to force a purchaser to do something that he would not do in a competitive market'').

[69] *See Jefferson Parish,* 466 U.S. at 13–14.

[70] A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced at a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. Furthermore, a Complex Order can also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying stock or exchange-traded fund (''ETF'') coupled with the purchase or sale of options contract(s). *See* Exchange Rule 1080, Commentary .08(a)(i).

[71] COLA is the automated Complex Order Live Auction process. A COLA may take place upon identification of the existence of a COLA-eligible order either: (1) following a COOP, or (2) during normal trading if the Phlx XL system receives a Complex Order that improves the cPBBO. *See* Exchange Rule 1080.

NOM today. The Exchange does not believe that a participant transacting volume on NOM is in any worse of a position with this proposal. Further, NOM and BX Options members benefit from the pricing structures available to them on those markets.[72]

The Exchange further believes that its proposal does not impact established pricing differentials among NASDAQ OMX exchanges; rather, it enhances equality among market participants transacting orders on different NASDAQ OMX exchanges. The NOM Participant who is also a Phlx member would be given an opportunity to earn a rebate on Phlx similar to the current Phlx member. The same is true of a BX Options member who is also a member on Phlx. If these market participants do not have a membership on Phlx, then they transact no orders on Phlx today and therefore would not be able to take advantage of the rebate because these rebates would only apply to orders transacted on Phlx. The same is true of any Phlx pricing proposal. The NOM or BX Options member that does not choose to be a Phlx member is not able to take advantage of any Phlx pricing, including this proposal, because it has not expended the effort to become a Phlx member, but it is free to do so at any time. Moreover, Phlx's proposal ''must stand or fall, based, among other things, on the interests of . . . persons using the facilities of [Phlx].[73]

Fundamentally, this proposal offers market participants a price decrease, the essence of competition. Price differentiation exists in the options markets today, as noted in the various examples provided above. These types of differentiation have not been seen as anticompetitive. There is no evidence to support a conclusion that competition would be harmed with the implementation of this proposal. Competitors could replicate the rebate that is being offered by Phlx, and to the extent that a competitor does not operate multiple exchanges, the desired discount could be offered on the sole market to achieve the same lower cost. Moreover, other options exchanges operate multiple markets, with different functionality and pricing being offered at the different markets, and there are no significant barriers to entry of additional options exchanges. For example, the International Stock Exchange LLC (''ISE'') recently launched a second options exchange, Topaz Exchange, LLC (''Gemini''), the twelfth options exchange today. New market entrants today offer incentivized pricing to bring order flow to that market. Miami International Securities Exchange LLC (''MIAX''), a recent options market entrant, waived transaction fees that apply to marker makers from June 3, 2013 through August 31, 2013.[74] In its filing, MIAX stated that:

> [t]he fee waiver is designed to both enhance the Exchange's competitiveness with other options exchanges and to strengthen its market quality. The Exchange believes that the fee waiver increases both intermarket and intramarket competition by incenting market participants and market makers on other exchanges to register as Market Makers on the Exchange. In addition, the Exchange believes that waiving transaction fees for Market Makers registered on the Exchange promotes tighter bid-ask spreads by Market Makers, and increases the volume of transactions in order to allow the Exchange to compete more effectively with other options exchanges for such transactions. The Exchange notes that the Exchange's daily percentage of the total market volume in MIAX listed options has increased since the beginning of the fee waiver—indicating that the fee waiver has enabled the Exchange to compete more effectively with other options exchanges for such transactions.[75]

Similarly, Phlx believes that its proposal promotes further vigorous, healthy and appropriate competition, and will lead other options exchanges to follow suit by offering higher rebates to attract order flow. The interests of all investors are furthered by the lowering of prices as a result of robust competition.

In sum, the Exchange believes that the proposed rule change will promote competition through a price reduction that enhances Phlx's competitiveness but to which other markets may respond in kind. The Exchange believes that the proposed change would increase both intermarket and intramarket competition by providing market participants a different option to consider when they decide which exchange provides the most attractive destination for directing order flow. Moreover, the proposal to offer the rebate does not constitute a tying arrangement under directly relevant judicial precedent. The Exchange believes that the proposed rebate would enable market participants to lower costs and incent them to provide additional liquidity at the Exchange, thereby enhancing the quality of its markets and increasing the volume of Customer contracts traded on Phlx. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity.

Given the robust competition for volume among options markets, many of which offer the same products, attracting order flow by offering rebates is consistent with the pro-competitive goals of the Act. The Exchange does not believe that the enhanced rebate could cause any competitive harm to the options market or to market participants, because no exchange has market power sufficient to raise prices for competitively-traded options in an unreasonable or unfairly discriminatory manner in violation of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[76] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2013–113 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission,

[72] NOM offers Customers rebates. *See* Chapter XV, Section 2(1).

[73] ArcaBook Order, 73 FR at 74793–74794.

[74] *See* Securities Exchange Act Release No. 70069 (July 30, 2013), 78 FR 47457 (August 5, 2013) (SR–MIAX–2013–36).

[75] *Id.*

[76] 15 U.S.C. 78s(b)(3)(A)(ii).

100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2013–113. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2013–113 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[77]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27632 Filed 11–18–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70863; File No. SR–Phlx–2013–112]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the PIXL Auction Notification Requirements Under Rule 1080

November 13, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on October 31, 2013, NASDAQ OMX PHLX LLC (the ''Exchange'' or ''PHLX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the PIXL[4] Auction Notification (''PAN'') requirements under Rule 1080(n) by no longer including the stop price in the PAN.

The text of the proposed rule change is below; proposed new language is italicized; proposed deletions are in brackets.

* * * * *

Rule 1080 Phlx XL and Phlx XL II

* * * * *

(n) Price Improvement XL (''PIXL'')

(i)–(ii)(A)(1)–(2) No change.

(3) When the Exchange receives a PIXL Order for Auction processing, a PAN detailing the side[,] *and* size [and the stop price] of the PIXL Order will be sent over the Exchange's TOPO Plus Orders data feed *and Specialized Quote Feed.* [An updated PAN will also be sent over the Exchange's TOPO Plus Orders data feed if the Initiating Member improves the stop price of the PIXL Order. The updated PAN will include the side, size and improved stop price of the PIXL Order.]

(ii)(A)(4)–(vii) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to encourage better PAN responses and thereby attain more price improvement for PIXL orders. The PAN is a broadcast message sent over TOPO Plus Orders,[5] the Exchange's market data feed for subscribers interested in the detailed information it offers, as well as over the Specialized Quote Feed (''SQF'') 6.0.[6]

Background—Current PIXL and PAN

The PIXL mechanism is a process whereby members electronically submit orders they represent as agent against principal interest or other interest that they represent as agent. The submitted orders are stopped at a price and are subsequently entered into an auction seeking price improvement. An Exchange member may initiate a PIXL Auction (''Initiating Member'') by submitting a PIXL Order (''Initiating Order'') specifying one of the following:

(1) A single price at which it seeks to execute the PIXL Order (a ''stop price'');

(2) that it is willing to automatically match as principal or as agent on behalf of an Initiating Order, the price and size of all trading interest, and responses to the PAN (known as ''auto-match''), in which case the PIXL Order will be stopped at the National Best Bid/Offer (''NBBO'') on the Initiating Order side of the market; or

(3) that it is willing to either: (i) Stop the entire order at a single stop price and auto-match PAN responses, together with trading interest, at a price or prices that improve the stop price to a specified price above or below which the Initiating Member will not trade (a ''Not Worse Than'' or ''NWT'' price); (ii) stop the entire order at a single stop price and auto-match all PAN responses and trading interest at or better than the stop price; or (iii) stop the entire order at the NBBO on the Initiating Order side, and auto-match PAN responses and trading interest at a price or prices

[77] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange adopted PIXL in October 2010 as a price improvement mechanism that is a component of the Exchange's fully automated options trading system. *See* Securities Exchange Act Release No. 63027 (October 1, 2010), 75 FR 62160 (October 7, 2010) (SR–Phlx–2010–108)(order granting approval of price improvement system, PIXL).

[5] Securities Exchange Act Release No. 60877 (October 26, 2009), 74 FR 56255 (October 30, 2009) (SR–Phlx–2009–92).

[6] Securities Exchange Act Release No. 63034 (October 4, 2010), 75 FR 62441 (October 8, 2010) (SR–Phlx–2010–124).

that improve the stop price up to the NWT price. In all cases, if the PBBO on the same side of the market as the PIXL Order represents a limit order on the book, the stop price must be at least one minimum price improvement increment better than the booked limit order's limit price.

After the PIXL Order is entered, a PAN is broadcast [7] and a one-second blind Auction ensues. Any participant interested in the PIXL Order may respond to the PAN. At the conclusion of the Auction, the PIXL Order will be executed and allocated at the best price(s) among quotes, orders, and PAN responses.

Once the Initiating Member has submitted a PIXL Order for processing, such PIXL Order may not be modified or cancelled, and a member submitting the order has no ability to control the timing of the execution. The execution is carried out by the Exchange's Phlx XL automated options trading system and execution pricing is determined solely by the other orders and quotes that are present in the Phlx XL system at the time the Auction ends.

Proposal—Changes to Rule 1080(n)—PAN

The Exchange proposes to modify the PAN under Rule 1080(n)(ii)(A)(3) to no longer include the stop price. Currently, the PAN includes the stop price as well as side and size of the PIXL Order. If the Initiating Member improves the stop price, today, an updated PAN will be sent, identifying the side, size and improved stop price. The exchange proposes to change the PAN such that neither a stop price is shown nor is an updated PAN sent with an improved price.

The Exchange believes that this should encourage PAN responses at the best possible price that the participant is willing to participate. This, in turn, should result in better execution prices, which is the ''price improvement'' that the PIXL functionality offers.

In other contexts, the Exchange has determined that showing the price of an order in an auction notification message is appropriate and useful. For instance, the Exchange recently determined to begin showing the price of a Complex Order in its auction message,[8] citing the need with respect to Complex Orders to attract additional responsive interest. Complex Orders are, by definition, more complex to trade, are a relatively new product, and are generally traded by a small cross-section of options customers, thereby necessitating the need to attract responsive interest.

The Exchange believes that the rationale for showing price differs respecting PIXL Orders, because PIXL Orders can be very different from Complex Orders. Specifically, PIXL orders can vary in size and type. A simple (non-complex) PIXL order for just a few contracts is more appropriate for exposure to aggressive price competition. PIXL orders are entered into PIXL precisely because the Initiating Member is interested in participating with the order, if needed, and rather than permitting the execution to occur automatically, the PIXL process offers an opportunity for an improved price. It is the sort of system feature that would benefit from a more blind auction.

When Phlx first adopted the PIXL process, Phlx determined to show the stop price, which many options exchanges do in their price improvement systems. At this time, the Exchange believes that, as discussed above, the process would benefit from not showing the stop price.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [9] in general, and furthers the objectives of Section 6(b)(5) of the Act [10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by providing more opportunity for price improvement for PIXL orders. Generally, in auctions, transparency of details accomplishes two main objectives. The first objective is to obtain a quality execution for the customer. The second goal is to ensure robust price competition. Because PIXL orders are entered with a stop price and a guarantee (in the form of a stop) of a reasonable execution price, the first objective is met when the order is entered. With respect to the second objective, the Exchange believes that excluding the stop price from the PAN should foster price competition from other participants in PIXL. Accordingly, Phlx participants will be motivated to be more aggressive and respond with their best price in order to participate in the PIXL execution. Not knowing the stop price creates an incentive for the responder to compete based on price and to make an independent decision, rather than merely join other participants' prices or improve the stop price minimally. Even though, without the stop price, less information is available to potential responding Phlx participants, the Exchange believes that, rather than harming the market or customers in some way, the proposal should lead to more price competition. As a result of more price competition and an improved price improvement process, the Exchange believes that participants will use PIXL to increase the number of customer orders that are provided with the opportunity to receive price improvement over the NBBO. As a result, customers will benefit as will the market as a whole. Further, the Exchange believes that the proposed changes promote and foster competition among the options exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposal is pro-competitive because it will enable the Exchange to better compete with another options exchange that provides price improvement functionality without revealing the price.[11] With respect to intra-market competition, the proposal will apply to all participants receiving PANs equally and to all PANs. Moreover, as explained above, the proposal should encourage Phlx participants to compete amongst each other by responding with their best price for a particular option.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time

[7] The PAN is broadcast over the TOPO Plus Orders data feed as well as the Specialized Quote Feed. The Exchange is proposing to add reference to the Specialized Quote Feed in the rule, consistent with the effectiveness of sending the PAN over the Specialized Quote Feed. *See supra* note 5 at text accompanying note 11.

[8] Securities Exchange Act Release No. 70271 (August 27, 2013), 78 FR 54340 (September 3, 2013) (SR–Phlx–2013–88).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *See* CBOE Rule 6.74A(b)(1)(B).

as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2013–112 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2013–112. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2013–112, and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27629 Filed 11–18–13; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(a)(ii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70851; File No. SR–NASDAQ–2013–137]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Fees Under Rule 7030(d) for Use of the Carteret NASDAQ Testing Facility Test Environment

November 13, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 8, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to establish fees under Rule 7030(d) for use of the NASDAQ Testing Facility (''NTF'') test environment located in Carteret, New Jersey, which will provide a virtual trading environment for testing. NASDAQ will begin assessing the fees on or about November 11, 2013; however, the installation fee will be waived for subscriptions ordered through March 31, 2014.

The text of the proposed rule change is below. Proposed new language is italicized.

* * * * *

7030. Other Services

(a)–(c) No change.

(d) Nasdaq Testing Facilit[y]*ies*

Nasdaq operates two test environments. One is located in Ashburn, Virginia and the other in Carteret, New Jersey. Unless otherwise noted, reference to the ''Nasdaq Testing Facility'' or ''NTF'' applies to both environments.

(1) The following fees are assessed for access to the Nasdaq Testing Facility:

(A) Subscribers that conduct tests of the computer-to-computer interface (CTCI) and the Financial Information Exchange (FIX) interface to ACT and ACES access protocols through the Nasdaq Testing Facility (NTF) shall pay the following charges:

$285/hour for Active Connection testing during the normal operating hours of the NTF;
No Charge for Idle Connection testing;
$333/hour for Active Connection testing at all times other than the normal operating hours of the NTF.

(B) Subscribers that conduct tests of all Nasdaq access protocol connections not included in paragraph (A) above or of market data vendor feeds through the Nasdaq Testing Facility shall pay $300 per port, per month.

(C) Subscribers to the Nasdaq Testing Facility located in Carteret, New Jersey shall pay a fee of $1,000 per hand-off, per month for connection to the NTF. The hand-off fee includes either a 1Gb or 10Gb switch port and a cross connect to the NTF. Subscribers shall also pay a one-time installation fee of $1,000 per hand-off, which is waived for all installations ordered prior to March 31, 2014.

(2)–(6) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing to amend Rule 7030(d) to establish fees for connection to a test environment. Specifically, NASDAQ proposes a one-time, per hand-off installation fee and a per hand-off monthly fee assessed for direct connectivity to the NASDAQ Testing Facility [3] test environment located in Carteret, New Jersey (''Carteret''), which is also the location of NASDAQ's primary trading System.[4] The NTF provides subscribers with a virtual NASDAQ System test environment that closely approximates the production environment and on which they may test their automated systems that integrate with NASDAQ. For example, the NTF provides subscribers a virtual System environment for testing upcoming NASDAQ releases and product enhancements, as well as testing firm software prior to implementation.

The NTF is currently housed solely in NASDAQ's Ashburn, Virginia facility (''Ashburn''). In addition to housing the NTF, Ashburn is also a NASDAQ disaster recovery facility and, as such, some member firms connect to Ashburn for disaster recovery purposes in addition to trading system testing. NASDAQ currently assesses fees on members for physical connectivity to Ashburn.[5] In addition, member firms pay fees to third party connectivity providers to provide connection from the member firm to Ashburn. The relatively large distance to [sic] between the Ashburn Testing Facility and the majority of NASDAQ OMX firms results in expensive connectivity costs for customers that connect via telecommunication providers. As a consequence, a large majority of member firms do [sic] not connect to Ashburn for NTF connectivity. In an effort to improve the utility of the NTF, NASDAQ is developing a test environment located in Carteret that will provide the same functionality as the trading testing functionality of Ashburn, yet more closely approximate the live trading environment due to its proximity to the System and upgraded hardware. In particular, the Carteret test environment will take advantage of technology upgrades NASDAQ is making to its trading-related systems. Unlike the Ashburn test environment, the Carteret test environment will provide dedicated connectivity to the facility via a cross-connection to either a member firm's direct connection router in Carteret or its co-location cabinet.[6] NASDAQ will ultimately sunset the trading testing functionality at Ashburn, yet retain post trade reporting and ACES functionality at that location.[7]

NASDAQ notes that, because the Carteret facility also houses the System, subscribers to the Carteret test environment will no longer need to pay for third party connectivity to Ashburn if the sole purpose for connecting to Ashburn is for trading testing. Such member firms may use an existing connection to Carteret to access the NTF through the use of a dedicated switch port and cross connect within the facility. NASDAQ is proposing to assess a fee for connection to the test environment within the Carteret facility. Specifically, NASDAQ proposes assessing a $1,000 per hand-off, per month fee assessed for connectivity to the Carteret test environment for either 1Gb or 10Gb, and a one-time per hand-off installation fee of $1,000, which will cover NASDAQ's costs incurred in setting up a subscriber in the Carteret facility. NASDAQ is proposing to waive the installation fee through March 31, 2014, after which NASDAQ will begin phasing out trading testing at the Ashburn test environment.

NASDAQ is also making a minor clarifying change to the rule in light of the operation of dual NTF test environments.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [8] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular. NASDAQ believes that proposal is with Section 6(b)(4) of the Act [10] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls. The new fees are equitably allocated because all member firms receive connectivity to the Carteret test environment for the same fee. NASDAQ believes that offering subscribers the option to subscribe to either 1Gb or 10Gb for the same fee is an equitable allocation because, unlike the live trading environment, there is no competitive advantage to possessing a higher capacity switch port in the test environment. The test environment is designed to closely mirror the live trading environment for participants, including matching the capacity of each participant's live environment switch port. In the absence of any competitive advantage, charging a uniform fee for both 1Gb and 10Gb switch ports is an equitable allocation of fees. NASDAQ believes that charging a uniform fee rather than mirroring the fees for the live trading environment [11] will encourage member firms to subscribe to Carteret, and further encourage those that subscribe to use the same hardware as is used by them for connectivity to the live trading environment. NASDAQ also believes that waiver of the installation fee for all installations ordered prior to March 31, 2014 is an equitable allocation as it is available to all member firms during the time frame; thus any member firm may avail itself of the free period if it so chooses.

The new fees are reasonable because they are designed to cover the costs NASDAQ has incurred in developing and offering the new test environment. The proposed fee should allow the Exchange to recoup these costs and make a profit, while providing member firms with a superior test environment that more closely mirrors that of the live trading environment on NASDAQ. NASDAQ believes that offering both 1Gb and 10Gb connectivity for the same fee is reasonable as the increased incremental cost it incurs by offering the 10Gb switch port at the lower fee is outweighed by the benefit all subscribers will receive if Carteret participants use hardware identical to what they use in the live trading environment, hence furthering the goal

[3] *See http://www.nasdaqtrader.com/Trader.aspx?id=TestingFacility* for a description of the NTF.

[4] As defined by Rule 4751(a). NASDAQ's System is mirrored at other locations as well.

[5] NASDAQ assesses fees for direct connection to Ashburn and fees for co-location connectivity. *See* Rules 7051 and 7034(b), respectively.

[6] Member firms currently use their connectivity to the Ashburn test environment for both testing and disaster recovery purposes.

[7] NASDAQ is not upgrading the hardware used for post trade reporting and ACES testing at this time, but may do so in the future. As noted, the new hardware implemented in the Carteret test environment is part of the larger technology upgrade to the System's hardware also located in Carteret.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] 15 U.S.C. 78f(b)(4).

[11] Members are assessed a monthly fees of $5,000 for 10 Gb and $1,000 for 1 Gb direct connectivity to NASDAQ. *See* Rule 7051.

of creating a test environment that closely mirrors the live trading environment. Waiver of the installation fee for a limited period is reasonable because NASDAQ believes such a waiver will attract new users to the test environment, thus ensuring a certain minimum level of monthly revenue to support the facility initially.

The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act [12] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customer [sic], issuers, brokers and dealers. NASDAQ does not believe that the proposed fees are unfairly discriminatory to subscribers to 10Gb live trading environment connectivity because, unlike the live trading environment where the capacity of connectivity to NASDAQ may confer a competitive advantage to a market participant and therefore price differentiation is appropriate for the benefit conferred, there is no such benefit conferred in the trade test environment. NASDAQ does not believe that the proposed fees are unfairly discriminatory among subscribers to the Carteret test facility because all member firms that subscribe to the service will be assessed the same fees. Because the proposed fees do not discriminate between 1Gb and 10Gb connectivity options, member firms are able to subscribe to Carteret without regard to the cost of their switch port capacity election. NASDAQ believes that by not discriminating on this basis it will encourage participants to connect to the Carteret test environment in the same manner as they do to the live trading environment, and thereby help Carteret more closely mirror the live test environment, as discussed above. Providing a more useful and accurate test environment will serve to improve live trading on NASDAQ and the national market system by permitting member firms the ability to accurately test changes prior to implementing them in the live trading environment, thereby reducing the likelihood of a potentially disruptive system failure in the live trading environment, which has the potential to affect all market participants. Last, NASDAQ does not believe that waiver of the installation fee is unfairly discriminatory as it is uniformly applied for a limited time, during which any member firm may subscribe.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the new test environment more closely approximates the live trading environment, subscribing member firms will be able to more accurately test their trading systems and avoid potentially disruptive system failures in the live trading environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective pursuant to Section 19(b)(3)(A) of the Act,[13] and paragraph (f)(2)[14] of Rule 19b–4, thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–137 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–137. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–137 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27617 Filed 11–18–13; 8:45 am]

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[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70857; File No. SR–CBOE–2013–107]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Amend Its Rules Regarding Option Orders That Are Tied to Stock Orders

November 13, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 31, 2013, Chicago Board Options

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend its rules regarding option orders that are tied to stock orders. The text of the proposed rule change is provided below.

(additions are *italicized;* deletions are [bracketed])

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Rule 6.53. Certain Types of Orders Defined

One or more of the following order types may be made available on a class-by-class basis. Certain order types may not be made available for all Exchange systems. The classes and/or systems for which the order types shall be available will be as provided in the Rules, as the context may indicate, or as otherwise specified via Regulatory Circular.

(a)–(x) No change.

(y) Tied to Stock. A tied to stock order is an option order that is tied to a stock order at the time of order entry (i.e. option order that, at the time it is entered into the System, is part of a trading strategy consisting of two or more orders, at least one of which is an order for the underlying stock, even though the component orders were submitted separately). Each tied to stock order submitted to the Exchange must be marked as ''tied to stock'' upon entry into the System.

. . . Interpretation and Policies:

.01–.05 No change.

* * * * *

Rule 6.77. Order Service Firms

(a)–(d) No change.

(e) Order service firms must submit reports pursuant to Rule 15.2A with respect to the stock transactions it executes on behalf of market-makers pursuant to this Rule 6.77.

* * * * *

Rule 15.2A. Reports of Execution of Stock Transactions

In a manner and form prescribed by the Exchange, each Trading Permit Holder must submit to the Exchange as soon as practicable following the close of trading on each trading day a report of the following information regarding the stock legs of tied to stock orders, QCC orders, stock-option orders and other option orders that include stock components on the same ticket executed on that trading day: (a) time of execution, (b) execution quantity, (c) execution price, (d) venue of execution, and (e) any other information requested by the Exchange.

. . . Interpretation and Policies:

.01 The Exchange will announce by Regulatory Circular any determinations, including the manner and form of the report, that it must make pursuant to Rule 15.2A.

.02 Trading Permit Holders do not need to report information pursuant to Rule 15.2A with respect to stock-option orders or other option orders that include stock components on the same ticket that were submitted to the Exchange for electronic processing.

* * * * *

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules regarding option orders that are tied to stock orders. The proposed rule change adds Rule 6.53(y), which defines a ''tied to stock order'' as an option order that is tied to a stock order at the time of order entry. In other words, a ''tied to stock'' order is an option order that, at the time it is entered into the System, is part of a trading strategy consisting of two or more orders, at least one of which is an order for the underlying stock, even though the component orders were submitted separately). Tied to stock orders do not include standard hedging strategies that include stock orders, as further discussed below. The proposed rule requires that each tied to stock order submitted to the Exchange be marked as ''tied to stock'' upon entry into the system. A tied to stock order can be a simple or complex order.

Tied to stock orders do not include qualified contingent cross (''QCC'') orders,[3] stock-option orders that are submitted on the same order ticket or submitted to the Exchange for electronic processing (such as to the complex order book (''COB''), complex order auction (''COA'') or automated improvement mechanism (''AIM'')),[4] or

[3] A QCC order is an order to buy (sell) at least 1,000 standard option contracts or 10,000 mini-option contracts that is identified as being part of a qualified contingent trade coupled with a contra-side order to sell (buy) an equal number of contracts. These orders may only be entered in the standard increments applicable to simple orders in the options class under Rule 6.42. For purposes of this order type, a ''qualified contingent trade'' is a transaction consisting of two or more component orders, executed as agent or principal, where: (a) At least one component is an NMS stock, as defined in Rule 600 of Regulation NMS under Act; (b) all components are effected with a product or price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker-dealer as principal or agent; (c) the execution of one component is contingent upon the execution of all other components at or near the same time; (d) the specific relationship between the component orders (e.g., the spread between the prices of the component orders) is determined by the time the contingent order is placed; (e) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (f) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade. QCC orders may execute without exposure provided the execution is not at the same price as a public customer order resting in the electronic book and is at or between the national best bid or offer. A QCC order will be cancelled if it cannot be executed. *See* Rule 6.53(u).

[4] A stock-option order is an order to buy or sell a stated number of units of an underlying stock or a security convertible into the underlying stock (''convertible security'') coupled with the purchase or sale of options contract(s) on the opposite side of the market representing either (i) the same number of units of the underlying stock or convertible security, or (ii) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than eight-to-one (8.00), where the ratio represents the total number of units of the underlying stock or convertible security in the option leg to the total number of units of the underlying stock or convertible security in the stock leg (or such lower ratio as may be determined by the Exchange on a

other option orders that include stock components on the same order ticket. Thus, those types of orders do not need to be marked as ''tied to stock.'' The Exchange is already aware that these types of orders include stock components, and thus does not require market participants to add the ''tied to stock'' marking to indicate the stock components for regulatory purposes, as discussed below.

The proposed rule change also adopts Rule 15.2A, which provides that each Trading Permit Holder must submit to the Exchange as soon as practicable following the close of trading on each trading day a report of the following information regarding the stock legs of any tied to stock orders, QCC orders, stock-option orders and other option orders that include stock components executed on that trading day: (a) Time of execution, (b) execution quantity, (c) execution price, (d) venue of execution, and (e) any other information requested by the Exchange. Proposed Interpretation and Policy .01 provides that the Exchange will designate by Regulatory Circular any determinations [5] that it must make under Rule 15.2A, including the manner and form in which Trading Permit Holders should submit these reports to the Exchange. Proposed Interpretation and Policy .02 provides that Trading Permit Holders do not need to report information pursuant to Rule 15.2A with respect to stock-option orders or other option orders with stock components that [sic] on the same order ticket submitted to the Exchange for electronic processing (such as to COB, COA or AIM). Because the Exchange routes for execution through a routing broker to stock exchanges or trading centers the stock components of these orders, the Exchange will already have access to the transaction information for the stock components of these orders.

The Exchange is responsible for regulating its markets and Trading Permit Holders. To carry out its regulatory responsibilities, the Exchange needs to have sufficient trade data to effectively monitor cross-market trading activity, assist with investigations of potential violations of federal securities laws and Exchange rules, and perform market reconstructions or other analysis necessary to understand trading activity. CBOE currently requires Trading Permit Holders to submit various execution data in real-time or daily to help the Exchange monitor trading activity.[6] The Exchange believes that as use of electronic, interconnected markets continues to increase, access to additional cross-market order information, specifically information regarding stock trades tied to option orders, would enhance the Exchange's ability to monitor this trading activity and therefore allow it to more effectively fulfill its regulatory responsibilities.

The Exchange believes the additional information it will receive pursuant to proposed Rule 15.2A (including information from orders service firms) will enhance its ability to effectively monitor and conduct surveillance of the CBOE market and its Trading Permit Holders, and their relevant cross-market trading activity, and thus to detect and investigate illegal activity in a more timely fashion. The Exchange also believes that the proposed rule change will improve its ability to conduct more timely and accurate trading analyses, market reconstructions, complex enforcement inquiries or investigations, and inspections and examinations. The proposed marking of tied to stock orders will greatly improve the Exchange's ability to tie an executed stock leg to the applicable option order and thus the Exchange's ability to conduct surveillances related to these orders, such as surveillances for compliance with Regulation SHO and frontrunning rules.

The Exchange believes the proposed rule change to mark tied to stock orders will place minimal additional burden on Trading Permit Holders, because the marking will merely be adding one additional notation when entering a tied to stock order. The Exchange also believes the proposed rule change to report to the Exchange information regarding stock trades will place minimal additional burden on Trading Permit Holders because they already have the capability to gather the required information, as the Exchange believes that stock exchanges (on which stock legs will be executed) require reporting of transaction information for stock trades in a similar manner as the Exchange does for option trades. Additionally, as discussed above, Exchange rules already require Trading Permit Holders to systemize or report various types of information regarding their orders and transactions to the Exchange. Further, the Exchange believes that this proposed rule change will substantially decrease its administrative burden in having to otherwise manually gather this cross-market information and tie stock legs to option orders in connection with its regulatory duties.

Order service firms,[7] which are Trading Permit Holders, will be subject to the reporting requirements set forth in proposed Rule 15.2A with respect to stock transactions that they execute on behalf of market-makers on the floor of the Exchange. The proposed rule change adds paragraph (e) to Rule 6.77 to include this reporting requirement, as the Exchange believes that including all requirements applicable to order service firms in a single Exchange rule will benefit these firms.

The Exchange will announce the implementation date of the proposed rule change in a Regulatory Circular to be published no later than 90 days following the effective date. The implementation date will be no later than 180 days following the effective date.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [9] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in

class-by-class basis). Only those stock-option orders with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis, are eligible for processing.

[5] This includes any updates or changes to any determinations made by the Exchange.

[6] *See, e.g.,* Rules 4.13 (requires Trading Permit Holders to submit reports to the Exchange related to position limits); 6.24 (which requires Trading Permit Holders to systemize certain order information); 6.51 (requires Trading Permit Holders to report to the Exchange certain information regarding transactions on and off the Exchange); 8.9 (requires Clearing Trading Permit Holders to report to the Exchange executed orders by Market-Makers for the purchase or sale of equity securities, as well as opening and closing positions in those securities); 15.2 (requires Trading Permit Holders to submit to the Exchange a daily report of all transactions); and 15.3 (requires Trading Permit Holders, upon request of the Exchange, to submit a report of the total uncovered short positions in each option contract class); *see also* Rule 15.1, Interpretation and Policy .01. Pursuant to Appendix A—Applicability of Rules of the Exchange to Chapter L of the CBOE Rules, these rules (except for Rule 6.24) also apply to CBSX Trading Permit Holders.

[7] Order service firms are regular Trading Permit Holder organizations that are registered with the Exchange for the purpose of taking orders for the purchase or sale of stocks or commodity futures contracts (and options thereon) from market-makers on the floor of the Exchange and forwarding such orders for execution. Rule 6.77(a).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [10] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will significantly aid the Exchange's efforts to prevent fraudulent and manipulative acts and practices with respect to option orders that are tied to stock, because it will greatly improve the Exchange's ability to tie executed stock legs to the applicable option orders that were separately entered. This, along with the additional stock transaction information that the Exchange will receive pursuant to proposed Rule 15.2A, will provide the Exchange with information that will permit CBOE to more efficiently and effectively conduct its regulatory surveillances of CBOE trading activity and cross-market trading activity, such as surveillances to ensure compliance with Regulation SHO and frontrunning rules. Because the proposed rule change will enhance the Exchange's surveillance of cross-market trading activity, the Exchange believes the proposed rule change will also remove impediments to and perfect the mechanism of a free and open market and a national market system. In addition, the Exchange believes the proposed rule change will promote just and equitable principles of trade and protect investors by allowing the Exchange to detect and investigate illegal activity in a more timely fashion and improving the Exchange's ability to conduct more timely and accurate trading analyses, market reconstructions, complex enforcement inquiries or investigations, and inspections and examinations. Finally, the Exchange believes that the proposed changes to Rule 6.77 will benefit investors by including all requirements with respect to stock transactions executed by orders service firms, respectively, in a single place within the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will impose the same marking and reporting requirements on all Trading Permit Holders that submit tied to stock orders to CBOE. The Exchange believes that the proposed rule change does not impose any burden on intermarket competition not necessary or appropriate in furtherance of the purposes of the Act. While the proposed rule change may impose requirements with respect to tied to stock orders submitted to CBOE that other options exchanges do not, the Exchange believes that, as discussed above, any additional burden imposed on Trading Permit Holders by this proposed rule change is minimal. The Exchange believes that stock exchanges (on which stock legs will be executed) already require reporting of transaction information for stock trades in a similar manner as the proposed rule change will require. Additionally, the marking requirement for tied to stock orders is only one additional piece of information that the Trading Permit Holder must enter when submitting a tied to stock order. The Exchange believes the benefits that the proposed rule change will provide with respect to its regulatory responsibilities far outweigh any minimal additional burden imposed on Trading Permit Holders.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2013–107 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2013–107. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2013–107, and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27623 Filed 11–18–13; 8:45 am]

BILLING CODE 8011–01–P

[10] *Id.*

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70856; File No. SR–CBOE–2013–109)

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Relating to Market Maker Appointment Cost Rebalances

November 13, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 1, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules regarding Market-Maker appointment cost rebalances. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, on the Commission's Web site (*http://www.sec.gov*), and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules regarding Market-Maker appointment cost rebalances. Appointments to act as a Market-Maker ''cost'' different amounts for different classes (with no classes costing more than 1.0). For purposes of ease of organization, the Exchange places classes into different tiers, with all the classes in a certain tier costing the same amount per appointment (so, for example, all the classes in tier B cost 0.05 per class appointment, all the classes in tier E cost .01 per class appointment, etc.). Each Trading Permit held by a Market-Maker has an appointment credit of 1.0. A Market-Maker may select for each Trading Permit the Market-Maker holds any combination of Hybrid classes and Hybrid 3.0 classes, whose aggregate appointment cost does not exceed 1.0.[4] The Exchange, on a quarterly basis, can rebalance the tiers into which different classes fall, meaning that the Exchange can elect to move a class from one tier to another (with that class' corresponding appointment cost changing). The Exchange proposes to memorialize in the rule that the Exchange will announce any rebalances at least ten (10) business days before the rebalance takes effect. Such rebalances will be announced to Trading Permit Holders (''TPHs'') via Regulatory Circular. Current Exchange practice includes announcing such rebalances more than ten business days prior to taking effect, but this practice is not codified in the rules. The Exchange proposes to make this codification.

When the Exchange effects a rebalancing (a class changing tiers), the class is assigned the appointment cost of that new tier. Upon such rebalancing, each Market-Maker with a Virtual Trading Crowd (''VTC'') appointment [5] will be required to hold the appropriate number of Trading Permits reflecting the revised appointment costs of the Hybrid classes constituting the Market-Maker's appointment. This means that, when classes are rebalanced, the sum of a Market-Maker's appointment costs cannot exceed the number of Trading Permits that a Market-Maker holds. Market-Makers adjust their own appointments via an online appointment system that allows them to select classes and assigns the relevant appointment cost to each class. The Exchange proposes to add language to this rule to provide for the handling of situations in which, upon notice of rebalancing, a Market-Maker fails to adjust his appointments such that the sum of his appointment costs do not exceed the number of Trading Permits the Market-Maker holds. The proposed language would state that if a Market-Maker with a VTC appointment holds a combination of appointments whose aggregate revised appointment cost is greater than the number of Trading Permits that Market-Maker holds, the Market-Maker will be assigned as many Trading Permits as necessary to ensure that the Market-Maker no longer holds a combination of appointments whose aggregate revised appointment cost is greater than the number of Trading Permits that Market-Maker holds.

This means that, upon rebalancing, if a Market-Maker's aggregate appointment cost is higher than the number of permits he holds, the Exchange will give the Market-Maker the number of permits necessary to ensure that the Market-Maker's aggregate appointment cost is no longer higher than the number of permits he holds (and the Market-Maker will be assessed the corresponding Trading Permit fees for such added Trading Permits). So, for example, consider a situation in which a Market-Maker's aggregate appointment cost for the classes for which he holds Market-Maker appointments prior to a rebalancing is 4.90 and the Market-Maker holds 5 Trading Permits. The Exchange then rebalances the appointment costs of classes and announces such rebalancing at least ten days prior to the rebalancing takes effect. Upon this rebalancing taking effect, the Market-Maker's appointment cost is now going to be 5.40. If the Market-Maker does not adjust his appointments prior to such rebalancing taking effect, the Exchange will simply assign that Market-Maker a sixth Market-Maker Trading Permit.

This solution prevents the Exchange from having to institute regulatory proceedings against a Market-Maker whose revised aggregate appointment cost exceeds the number of Trading Permits the Market-Maker holds. Otherwise, the Exchange must expend considerable resources coordinating with the Market-Maker to ensure that the Market-Maker adjusts his appointments such that the Market-Maker's aggregate appointment cost does not exceed the number of Trading Permits the Market-Maker holds (as the Exchange does not have the ability to

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* CBOE Rule 8.3(c)(iv).

[5] A VTC appointment allows a Market-Maker to quote electronically in a class.

adjust the Market-Maker's VTC appointments).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,[9] which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange's Trading Permit Holders and persons associated with its Trading Permit Holders with the Act, the rules and regulations thereunder, and the rules of the Exchange.

The proposed rule change would allow the Exchange to ensure that no Market-Maker has an aggregate appointment cost that exceeds the number of Trading Permits the Market-Maker holds. As such, the proposed rule change removes an impediment to and perfects the mechanism of a free and open market system and, in general, protects investors and the public interest (as having an aggregate appointment cost that exceeds the number of Trading Permits a Market-Maker holds would provide an unfair advantage to that Market-Maker). Because the Exchange does not have the ability to adjust the VTC appointments of a Market-Maker whose aggregate appointment cost exceeds the number of Trading Permits that the Market-Maker holds, the proposed rule change also helps the Exchange to ensure compliance by TPHs with Exchange rules. The proposed rule change would apply to all Market-Makers equally.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. CBOE does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it will apply to all Market-Makers (and only Market-Makers can have a Market-Maker appointment). CBOE does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change only applies to the Market-Maker appointment process on CBOE, and also because the proposed rule change is intended for a compliance, and not competitive, purpose.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–CBOE–2013–109 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–CBOE–2013–109. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CBOE–2013–109 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27622 Filed 11–18–13; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

[9] 15 U.S.C. 78f(b)(1).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70855; File No. SR–NYSEArca–2013–120]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .08 to Rule 6.4 To Modify the Quarterly Option Series Program To Eliminate the Cap on the Number of Additional Series That May Be Listed Per Expiration Month for Each QOS in Exchange-Traded Fund Options

November 13, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 5, 2013, NYSE Arca, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .08 to Rule 6.4 to modify the Quarterly Option Series (''QOS'') Program to eliminate the cap on the number of additional series that may be listed per expiration month for each QOS in exchange-traded fund (''ETF'') options. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Commentary .08(ii) to Rule 6.4 related to the QOS Program to eliminate the cap on the number of additional series that may be listed per expiration month for each QOS in ETF options.[4] As set out in Commentary .08, the Exchange may list QOS for up to five currently listed options classes that are either index options or options on ETFs. The Exchange may also list QOS on any option classes that are selected by other securities exchanges that employ a similar program under their respective rules. Currently, for each QOS in ETF options that has been initially listed on the Exchange, the Exchange may list up to 60 additional series per expiration month.

The Exchange is proposing to amend Commentary .08(ii) to make the treatment of QOS in ETF options consistent with the treatment of QOS in index options. NYSE Arca Options Rule 5.19(a)(3)(C) governs the QOS Program in index options. Index options include options on industry/narrow-based indices and options on market/broad-based indices.[5] Options on ETFs are similar to index options because ETFs hold securities based on an index or portfolio of securities.[6] The requirements and conditions of the QOS Program in index options, moreover, parallel those of the QOS Program in ETF options. For example, like the QOS Program in ETF options, the QOS Program in index options permits QOS in up to five currently-listed options classes; requires the listing of series that expire at the end of the next (as of the listing date) consecutive four quarters, as well as the fourth quarter of the next calendar year; requires the strike price of each QOS to be fixed at a price per share; and establishes parameters for the number of strike prices above and below the underlying index. The QOS Program in index options, however, does not place a cap on the number of additional series that the Exchange may list per expiration month for each QOS in index options. Elimination of the cap set out in Commentary .08(ii), therefore, would result in similar regulatory treatment of similar options products.[7]

The Exchange believes that the proposed revision to the QOS Program would provide market participants with the ability to better tailor their trading to meet their investment objectives, including hedging securities positions, by permitting the Exchange to list additional QOS in ETF options that meet such objectives. The Exchange has observed that situations arise in which additional strike prices in smaller intervals would be valuable to investors. However, due to the cap on additional QOS series the Exchange cannot always provide these important at-the-money strikes. Elimination of the cap would remedy this issue.

Currently, the Exchange lists quarterly expiration options on six ETFs, but the cap restricts the number of strikes on these options, which often results in a lack of strike continuity. For example, the Exchange lists quarterly expiration options on SPDR Gold Trust (''GLD''). On January 2, 2013, the Exchange initially listed December 31, 2013 quarterly expiration options (''December 2013 Quarterlies'') on GLD, which closed the previous trading day at $162.02, with initial strikes from $115 to $210, and additional strikes in $1 intervals from $131 to $189. But during

[4] A Quarterly Option Series is a series of an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any business day, and that expires at the close of business on the last business day of a calendar quarter. The Exchange lists series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. *See* NYSE Area Options Rules 6.1(b)(42) and 6.4, Commentary .08(i).

[5] An ''industry index'' or ''narrow-based index'' is ''an index designed to be representative of a particular industry or group of related industries.'' *See* NYSE Arca Options Rule 5.10(b)(22). A ''market index'' or ''broad-based index'' is ''an index designed to be representative of a stock market as a whole or of a range of companies in unrelated industries.'' *See* NYSE Arca Options Rule 5.10(b)(23).

[6] NYSE Arca Options Rule 6.1(b)(32) defines ''Exchange-Traded Fund Share'' as ''Exchange-listed securities representing interests in open-end unit investment trusts or open-end management investment companies that hold securities (including fixed income securities) based on an index or a portfolio of securities.''

[7] The Exchange notes that Rule 5.19(a)(3)(C)(ii), which governs the addition of new series of Quarterly Options Series on index options, states: ''The Exchange may open additional strike prices of a Quarterly Options Series that are above the value of the underlying index provided that the total number of strike prices above the value of the underlying index is no greater than five. The Exchange may open additional strike prices of a Quarterly Options Series that are below the value of the underlying index provided that the total number of strike prices is below the value of the underlying index is no greater than five. The opening of any new Quarterly Options series shall not affect the series of options of the same class previously opened.'' In practice, this means that the Exchange may add Quarterly Options Series at strikes above and below the current index value, so long as there are not more than five strikes above, and five strikes below, the current index value after such additions are made. The total number of Quarterly Options Series that can be listed at any one time is, therefore, theoretically unlimited, so long as there are no more than five strikes above (or below) a given index value when new strikes are added.

2013, GLD has closed at a range of $115.94 to $163.67 and is currently trading around $125. As a result of the cap, the Exchange cannot offer December 2013 Quarterlies on GLD in $1 intervals within $10 of the closing price of GLD because the number of strikes would exceed the cap of 60 additional strikes. Consequently, the Exchange is not able to list important at-the-money strikes due to the cap on additional strikes. While the Exchange has the ability to delist strikes with no open interest so that it may list strikes that are closer to the money, delisting is not always possible. If all of the existing strikes have open interest, the Exchange cannot delist strikes so that it may list strikes closer to the money.

But the Exchange is not subject to a similar cap on the number of additional weekly or monthly expiration options it can list on ETFs.[8] So, for example, the Exchange can list additional weekly expiration options on GLD in $1 and $0.50 intervals within $5 of the closing price of GLD, and additional monthly expiration options in $1 intervals from $85 to $178. Therefore, due to the cap, the Exchange cannot list, and an investor cannot structure, an investment on a quarterly basis with the same granularity that can be achieved on a weekly or monthly basis.

Similarly, the Exchange lists quarterly options on SPDR S&P 500 ETF (''SPY''), which during 2013 closed at a range of $145.55 to $173.05. Again, due to the cap, the Exchange cannot offer quarterly expiration options on SPY in $1 intervals above $170 because the number of additional strikes would exceed the cap of 60. Instead, the Exchange is forced to list quarterly expiration options on SPY at $5 intervals above $170, despite the fact that SPY has recently traded between $165 and $170. As such, if SPY would again increase to $170, then the Exchange would only be able to offer options with a strike price $5 away from the price of the underlying ETF due to the cap on additional strikes.

On the other hand, in contrast to the limitations imposed on the Exchange for quarterly expiration options on ETFs, the absence of a similar cap on quarterly expiration options on indexes means that the Exchange can list, and investors can achieve, more granularity in index-based options. For example, S&P 500 Mini–SPX options (''SPX'') are options on the S&P 500 index, as opposed to options on SPY, the ETF based on that same S&P 500 index. SPX options are used to hedge SPY positions and are traded at the equivalent of one point and one-half point intervals. The SPX trades at 10 times the value of SPY, so that if SPY trades at $168.70, SPX trades at $1687. Therefore, the strike price for a quarterly expiration option on SPX, that is a hedge for a quarterly expiration option on SPY at $170, would be $1700. The Exchange can offer quarterly expiration options on SPX with strike prices of $1670, $1680, $1690, and $1700 because there is no cap on quarterly expiration index-based options. However, the Exchange cannot similarly offer quarterly expiration options on SPY with similar strike price continuity because of the cap on quarterly expiration ETF-based options.

Elimination of the cap would also help market participants meet their investment objectives by providing expanded opportunities to roll ETF options into later quarters. For example, a market participant that holds one or more contracts in a QOS in an ETF put option that has a strike price of $120 and an expiration date of the last day of the third quarter may wish to roll that position into the fourth quarter. That is, the market participant may wish to close out the contracts set to expire at the end of the third quarter and instead establish a position in the same number of contracts in a QOS in a put option on the same ETF with the same strike price of $120, but with an expiration date of the last day of the fourth quarter. Because of the cap on additional QOS in ETF options, however, the Exchange may not be able to list additional QOS in the ETF. Elimination of the cap, though, would allow the Exchange to meet the investment needs of market participants in such situations.

The Exchange has sufficient capacity to handle increased quote and trade reporting traffic that might be expected to result from listing additional QOS in ETF options. The Exchange notes that it has purchased capacity from the Options Price Reporting Authority (''OPRA'') to handle its options quote and trade reporting traffic.[9] The Exchange believes that it has acquired sufficient capacity to handle increased quote and trade reporting traffic that might be expected to result from listing additional QOS in ETF options.[10] In the Exchange's view, it would be inconsistent to prohibit the listing of additional QOS beyond a specified cap when each exchange independently purchases capacity to meet its quote and trade reporting traffic needs.

Moreover, the Exchange has in place a quote mitigation plan that helps it maintain sufficient capacity to handle quote traffic. The plan, which has been approved by the Commission, reduces the number of quotations that the Exchange disseminates by limiting disseminated quotes to active options series only.[11]

To help ensure that only active options series are listed, the Exchange also has in place procedures to delist inactive series. Commentary .08(iii) to Rule 6.4 requires the Exchange to review QOS that are outside of a range of five strikes above and five strikes below the current price of the underlying ETF. Based on that review, the Exchange must delist series with no open interest in both the call and the put series having (i) a strike price higher than the highest price with open interest in the put and/or call series for a given expiration month, and (ii) a strike price lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.

The Exchange's experience with listing additional QOS in ETF options at the end of 2008 also indicates that it has sufficient capacity to handle increased order and quote traffic that might be expected to result from listing additional QOS in ETF options. Commentary .08(iv) to Rule 6.4 established a temporary rule that permitted the Exchange to list up to 100 additional series per expiration month for each QOS in ETF option in the fourth quarter of 2008, and for the new expiration month being added after the December 2008 QOS expiration.[12] The

[8] For Short Term Options Series (''weekly options''), commentary .07 to Rule 6.4 sets a maximum number of strikes, but the Exchange can exceed this maximum number of strikes under certain circumstances. Specifically, ''in the event that the underlying security has moved such that there are no series that are at least 10% above or below the current price of the underlying security and all existing series have open interest, the Exchange may list additional series, in excess of the 30 allowed under Commentary .07, that are between 10% and 30% above or below the price of the underlying security.''

[9] *See* Exchange Act Release No. 48822 (Nov. 21, 2003), 68 FR 66892 (Nov. 28, 2003) (SR–OPRA–2003–01) (requiring exchanges to acquire options market data transmission capacity independently, rather than jointly).

[10] The SEC has relied upon an exchange's representation that it has sufficient capacity to support new options series in approving a rule amendment permitting the listing of additional option series. *See* Exchange Act Release No. 57410 (Jan. 17 [sic], 2008), 73 FR 12483, 12484 (Mar. 7, 2008) (SR–CBOE–2007–96) (amendments to CBOE Rule 5.5(e)(3)) (''In approving the proposed rule change, the Commission has relied upon the Exchange's representation that it has the necessary systems capacity to support new options series that will result from this proposal'').

[11] NYSE Arca's quote mitigation plan is provided for in Commentary .03 to NYSE Arca Rule 6.86, adopted in 2007. *See* Securities Exchange Act Release No. 55156 (Jan. 23, 2007), 72 FR 4759 (Feb. 21 [sic], 2007) (SR–NYSEArca–2006–73).

[12] *See* Exchange Act Release No. 59012 (Nov. 24, 2008), 73 FR 73371 (Dec. 2, 2008) (SR–NYSEArca–2008–131). The Exchange amended Commentary

Exchange did not experience capacity constraints during this temporary increase.

Finally, the Exchange is proposing to make a technical amendment to Commentary .08(ii) to Rule 6.4. Currently, the Commentary states that the Exchange may open for trading additional Quarterly Options Series that are more than 30% away from *the current index value;* however, the provision is meant to reference the price of the underlying ETF. The Exchange is also deleting Commentary .08(iv) to Rule 6.4. As noted, Commentary .08(iv) temporarily increased the number of additional QOS in ETF options that could be added by the Exchange from 60 to 100. Now that the pilot program has expired, there is no need for the continued inclusion of paragraph (iv) in Commentary .08.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5),[14] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market because it will expand the investment options available to investors and will allow for more efficient risk management. The Exchange believes that removing the cap on the number of QOS in ETF options permitted to be listed on the Exchange will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment and hedging decisions to their needs, and therefore, the proposal is designed to protect investors and the public interest. Additionally, by removing the cap, the proposed rule change will make the treatment of QOS in ETF options consistent with the treatment of QOS in index options, thus resulting in similar regulatory treatment for similar options products.

While the expansion of the number of QOS in ETF options is expected to generate additional quote traffic, the Exchange believes that this increased traffic will be manageable and will not present capacity problems. As previously stated, the Exchange has in place a quote mitigation plan that helps it maintain sufficient capacity to handle quote traffic. To help ensure that only active options series are listed, Exchange procedures are designed to delist inactive series, ensuring that any additional quote traffic is a result of interest in active series.

The Exchange believes it is appropriate to eliminate obsolete or out-of-date rule text from the rule book. Specifically, the technical amendment to Commentary .08(ii) to Rule 6.4 is appropriate as the correction will lessen the likelihood for investor confusion. Further, elimination of Commentary .08(iv) to Rule 6.4 is appropriate as the removal will also lessen the likelihood for investor confusion by deleting rules that no longer are applicable.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that investors would benefit from the introduction of additional QOS in ETF options by providing investors with more flexibility to closely tailor their investment and hedging decisions to their needs. Additionally, Exchange procedures for delisting inactive series will ensure that only active series with sufficient investor interest will be made available and maintained on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and Rule 19b–4(f)(6)[16] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[17] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2013–120 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2013–120. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

.08 to add paragraph (iv) during the financial crisis in 2008. The amendment was in response to requests for lower priced strikes on certain ETFs. Other options exchanges amended their rules quarterly options series rules to permit the listing of additional series in ETF options. *See, e.g.,* 73 FR 12483 (amendments to CBOE Rule 5.5(e)(3)).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[17] 15 U.S.C. 78s(b)(2)(B).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2013–120 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27621 Filed 11–18–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70858; File No. SR–BOX–2013–52]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the BOX Fee Schedule To Specify the Frequency With Which the Exchange May Change the Options Regulatory Fee

November 13, 2013.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 31, 2013, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend the Fee Schedule to specify the frequency with which the Exchange may change the Options Regulatory Fee (''ORF'') on the BOX Market LLC (''BOX'') options facility. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on November 1, 2013. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for trading on BOX to specify the frequency with which the Exchange may change the ORF. The Exchange proposes to implement the change effective November 1, 2013.

The ORF is assessed by the Exchange on each BOX Options Participant for all options transactions executed or cleared by the BOX Options Participant that are cleared by The Options Clearing Corporation (''OCC'') in the customer range (i.e., transactions that clear in the customer account of the BOX Options Participant's clearing firm at OCC) regardless of the exchange on which the transaction occurs. The fee is collected indirectly from BOX Options Participants through their clearing firms by OCC on behalf of the Exchange. The dues and fees paid by BOX Options Participants go into the general funds of the Exchange, a portion of which is used to help pay the costs of regulation.

In response to feedback from participants requesting greater certainty as to when ORF changes may occur, the Exchange proposes to specify in the Fee Schedule that the Exchange may only increase or decrease the ORF semi-annually, and any such fee change will be effective on the first business day of February or August. The Exchange has previously committed to monitor the amount of revenue collected from the ORF so that it, in combination with its other regulatory fees and fines, does not exceed regulatory costs. In addition to submitting a proposed rule change to the Securities and Exchange Commission (''Commission'') as required by the Act to increase or decrease the ORF, the Exchange will notify Participants via an Informational Circular of any anticipated change in the amount of the fee at least 30 calendar days prior to the effective date of the change. The Exchange believes that by providing guidance on the timing of any changes to the ORF, the Exchange would make it easier for participants to ensure their systems are configured to properly account for the ORF.

The proposed change is not intended to address any other issues, and the Exchange is not aware of any problems that BOX Options Participants would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed change to limit changes to the ORF to twice a year on specific dates with advance notice is reasonable because it will give participants certainty on the timing of changes, if any, and better enable them to properly account for ORF charges among their customers. The Exchange believes that the proposed change is equitable and not unfairly discriminatory because it will apply in the same manner to all BOX Options Participants that are subject to the ORF and provide them

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] 15 U.S.C. 78f(b)(4) and (5).

with additional advance notice of changes to that fee.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not intended to address a competitive issue but rather to provide BOX Options Participants with better notice of any change that the Exchange may make to the ORF. In any event, because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their trading practices, the Exchange believes that the degree to which fee or credit changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed change will impair the ability of BOX Options Participants, or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act [6] and Rule 19b–4(f)(2) thereunder,[7] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2013–52 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2013–52. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2013–52 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27624 Filed 11–18–13; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70861; File No. SR–NYSEArca–2013–119]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 6.69(a) To Provide That a Pattern or Practice of Late Reporting of Option Transactions to the Exchange for Dissemination to the Options Price Reporting Authority Is Subject to Disciplinary Action

November 13, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 4, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.69(a) to provide that a pattern or practice of late reporting of option transactions to the Exchange for dissemination to the Options Price Reporting Authority is subject to disciplinary action. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 6.69(a) to provide that a pattern or practice of late reporting of option transactions to the Exchange for dissemination to the Options Price Reporting Authority (''OPRA'') is subject to disciplinary action, including fines. Current Rule 6.69(a) requires an OTP Holder or OTP Firm to immediately report option transactions to the Exchange for dissemination to OPRA. The rule further provides that transactions not reported to OPRA within 90 seconds after execution will be designated ''late,'' and that an OTP Holder or OTP Firm who is responsible for late reporting of an option transaction, without reasonable justification or excuse, will be subject to a fine under Rule 10.12. Thus, under current rule 6.69(a), a single late-reported transaction is subject to a fine.

To have more flexibility in evaluating whether late reporting of option transactions should be subject to a fine, the Exchange proposes to amend the rule to provide that ''a pattern or practice'' of late reporting of option transactions to the Exchange would constitute a violation of the 90-second reporting requirement. While the Exchange's proposal does not expressly define what a ''pattern or practice'' of late reporting is, the Exchange will apply its existing Sanctioning Guidelines, which are contained in Rule 10.16. Rule 10.16 contains both general guidelines for considering and determining the applicability of sanctions under various Exchange rules, and guidelines specific to violations of Rule 6.69, among other rules.[4] Moreover, in determining appropriate disciplinary action for late reporting of option transactions, the Exchange may apply, at its discretion, the Minor Rule Plan contained in Rule 10.12 for minor violations of Rule 6.69,[5] which would result in a fine of not more than $5,000, or Rule 10.16 in the case of more serious late reporting violations. Rule 10.16(e)(3)(B) lists suggested monetary sanctions for violations of Rule 6.69 that range from $10,000 to $100,000. Because violations of Rule 6.69 may be adjudicated pursuant to either Rule 10.12 or Rule 10.16, the Exchange proposes to further amend Rule 6.69(a) by adding a cite to Rule 10.16.

The Exchange notes that the proposed rule change is substantially similar to current rules of the Chicago Board Options Exchange (''CBOE'') Rule 6.51(a) and NASDAQ OMX PHLX LLC (''PHLX'') Rule 1051(a).[6] Both CBOE and PHLX rules utilize the ''pattern or practice'' standard for evaluating late trade reporting violations.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the proposed amendment providing the Exchange with flexibility in determining whether an OTP Holder's late reporting of option transactions to the Exchange constitutes a pattern or practice that should subject the late reporter to disciplinary action addresses an inconsistency between in [sic] the processes for adjudication of late-trade reporting on the Exchange and those of other self-regulatory organizations. Eliminating this inconsistency will help foster cooperation and coordination with persons engaged in facilitating transactions in securities. Moreover, the proposed rule change would not result in any material diminution of the Exchange's overall enforcement authority or any material change in surveillance of late-trade reporting. As such, the proposed rule change is consistent with the Act because it would continue to protect investors and the public interest. In addition, amending Rule 6.69 by including references to rules governing the adjudication of late trade violations is designed to add clarity to the rules of the Exchange. Providing clear and well defined rules helps to remove impediments to, and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange's proposal allows the Exchange to compete more effectively with other options exchanges that currently have rules in effect substantially similar to what the Exchange now proposes.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

[4] Rule 10.16(b) *General Principles Applicable to All Sanction Determinations* includes an aggregation provision under Rule 10.16(b)(4) to guide the Exchange in determining whether to aggregate, or ''batch'' violations together, thereby treating them as one ''violation'' for purposes of determining sanctions if the misconduct meets certain objective parameters, such as ''[w]hether the violations involved unintentional or negligent misconduct or manipulative, fraudulent, or deceptive intent. (If aggregated, the violations should not have involved manipulative, fraudulent, or deceptive intent).'' Rule 10.16(d) *Principal Considerations in Determining Sanctions* includes ''(6) whether the named party engaged in numerous acts and/or a pattern of misconduct.'' Additionally, Rule 10.16(e) *Specific Sanctioning Guidelines for Options Order Handling Rules* provides in subparagraph (3) *Trade Reporting—NYSE Arca Rule 6.69* that ''(ii) the extent of the abuse, i.e. whether a pattern of abuse exists, and the number of transactions involved'' are to be considered among additional principal considerations in determining sanctions.

[5] Violations of Rule 6.69 are listed as eligible for adjudication under the Minor Rule Plan in Rule 10.12(h)(38).

[6] *See* CBOE Rule 6.51(a); PHLX Rule 1051(a). PHLX rules also permit, but do not require the exchange, in evaluating whether a pattern or practice of rules violations exists, to aggregate or ''batch'' individual order handling violations as a single occurrence of a violation of a specific order handling rule by a member or member organization over a specific time period. *See* PHLX Rule 970.01.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2013–119 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2013–119. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the Exchange's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2013–119 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27627 Filed 11–18–13; 8:45 am]

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Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70864; File No. SR–NYSEMKT–2013–89]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 957NY To Provide That a Pattern or Practice of Late Reporting of Option Transactions to the Exchange for Dissemination to the Options Price Reporting Authority Is Subject to Disciplinary Action

November 13, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on October 31, 2013, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 957NY to provide that a pattern or practice of late reporting of option transactions to the Exchange for dissemination to the Options Price Reporting Authority is subject to disciplinary action. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 957NY to provide that a pattern or practice of late reporting of option transactions to the Exchange for dissemination to the Options Price Reporting Authority (''OPRA'') is subject to disciplinary action, including fines. Current Rule 957NY requires an ATP Holder to immediately report option transactions to the Exchange. The rule further provides that transactions not reported to OPRA within 90 seconds after execution will be designated ''late,'' and that an ATP Holder who is responsible for late reporting of an option transaction, without reasonable justification or excuse, will be subject to a fine under Section 9A. Thus, under current rule 957NY, a single late-reported transaction is subject to a fine.

To have more flexibility in evaluating whether late reporting of option transactions should be subject to a fine, the Exchange proposes to amend the rule to provide that ''a pattern or practice'' of late reporting of option transactions to the Exchange would constitute a violation of the 90-second reporting requirement. While the Exchange's proposal does not expressly define what a ''pattern or practice'' of late reporting is, the Exchange will apply its existing Sanctions Guidelines, which are contained in Rule 476, *Supplementary Material* .10. Rule 476, *Supplementary Material* .10 contains both general guidelines for considering and determining the applicability of

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

sanctions under various Exchange rules, and guidelines specific to violations of particular Exchange rules, including ''Trade Reporting—Late Reporting,'' among other rules.[4] Moreover, in determining appropriate disciplinary action for late reporting of option transactions, the Exchange may apply, at its discretion, the Minor Rule Plan contained in Rule 476A, *Imposition of Fines for Minor Rule(s) Violations* for minor violations of Rule 957NY,[5] which would result in a fine from $1,500 up to $5,000, or Rule 476 in the case of more serious late reporting violations. Rule 476 lists suggested monetary sanctions for violations of Rule 957NY that range from $1,000 to $50,000.

The Exchange notes that the proposed rule change is substantially similar to current rules of the Chicago Board Options Exchange (''CBOE'') Rule 6.51(a) and NASDAQ OMX PHLX LLC (''PHLX'') Rule 1051(a).[6] Both CBOE and PHLX rules utilize the ''pattern or practice'' standard for evaluating late trade reporting violations.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the proposed amendment providing the Exchange with flexibility in determining whether an ATP Holder's late reporting of option transactions to the Exchange constitutes a pattern or practice that should subject the late reporter to disciplinary action addresses an inconsistency between in [sic] the processes for adjudication of late-trade reporting on NYSE MKT and those of other self-regulatory organizations. Eliminating this inconsistency will help foster cooperation and coordination with persons engaged in facilitating transactions in securities. Moreover, the proposed rule change would not result in any material diminution of the Exchange's overall enforcement authority or any material change in surveillance of late-trade reporting. As such, the proposed rule change is consistent with the Act because it would continue to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange's proposal allows the Exchange to compete more effectively with other options exchanges that currently have rules in effect substantially similar to what the Exchange now proposes.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2013–89 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–89. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

[4] Rule 476, *Supplementary Material* .10 *Sanctions Guidelines* includes an aggregation provision under subparagraph (B.) *General Principles Applicable to All Sanction Determinations* (4) to guide the Exchange in determining whether to aggregate, or ''batch'' violations together, thereby treating them as one ''violation'' for purposes of determining sanctions if the misconduct meets certain objective parameters, such as ''(B) Whether the violations involved unintentional or negligent misconduct or manipulative, fraudulent, or deceptive intent. (If aggregated, the violations should not have involved manipulative, fraudulent, or deceptive intent).'' Rule 476, *Supplementary Material* .10(C.) *Principal Considerations in Determining Sanctions* includes ''(6) whether the named party engaged in numerous acts and/or a pattern of misconduct.'' Additionally, Rule 476, *Supplementary Material* .10(C) also provides that ''(14) The number, size, and character of the transactions at issue'' are to be considered among principal considerations in determining sanctions.

[5] Failure to comply with the reporting duties of Rule 957NY is listed as subject to fine under the Minor Rule Plan contained in Rule 476A, *Supplementary Material* Part 1C.(i)(27), according to the Minor Rule Plan Fine Schedule provided in Rule 476A, *Supplementary Material* Part 1C.(iii)(i)(27).

[6] *See* CBOE Rule 6.51(a); PHLX Rule 1051(a). PHLX rules also permit, but do not require the exchange, in evaluating whether a pattern or practice of rules violations exists, to aggregate or ''batch'' individual order handling violations as a single occurrence of a violation of a specific order handling rule by a member or member organization over a specific time period. *See* PHLX Rule 970.01.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the Exchange's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2013–89 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27630 Filed 11–18–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70859; File No. SR–ISE–2013–54]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

November 13, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 1, 2013, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to decrease its Options Regulatory Fee. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to decrease its Options Regulatory Fee (''ORF''). The Exchange has reevaluated the current amount of the ORF in light of increased trading volumes year-to-date. In order to ensure that revenue collected from the ORF, in combination with other regulatory fees and fines, does not exceed the Exchange's total regulatory costs, the Exchange is proposing to decrease the ORF from $0.0042 per contract to $0.0039 per contract. The Exchange is also proposing to remove language from its Schedule of Fees that indicates that the ORF is effective starting on January 1, 2010 as this effective date has passed.

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of members' customer options business, including performing routine surveillance and investigations, as well as policy, rulemaking, interpretive and enforcement activities. The Exchange believes that revenue generated from the proposed ORF, when combined with all of the Exchange's other regulatory fees and fines, will cover a material portion, but not all, of the Exchange's regulatory costs. The Exchange notes that its regulatory responsibilities with respect to member compliance with options sales practice rules have been allocated to the Financial Industry Regulatory Authority (''FINRA'') under a 17d–2 Agreement. The ORF is not designed to cover the cost of options sales practice regulation.

The ORF is assessed by the Exchange to each member for all options transactions in both Standard Options and Mini Options executed or cleared by the member that are cleared by The Options Clearing Corporation (''OCC'') in the customer range, i.e., transactions that clear in the customer account of the member's clearing firm at OCC, regardless of the exchange on which the transaction occurs. In other words, ISE imposes the ORF on all customer-range transactions executed by a member, even if the transactions do not take place on the Exchange.[3] The ORF also is charged for transactions that are not executed by a member but are ultimately cleared by a member. In the case where a non-member executes a transaction and a member clears the transaction, the ORF will be assessed to the member who clears the transaction. In the case where a member executes a transaction and another member clears the transaction, the ORF will similarly be assessed to the member who clears the transaction.

The ORF is collected indirectly from members through their clearing firms by OCC on behalf of the Exchange. As a practical matter, it is not feasible or reasonable for the Exchange (or any SRO) to identify each executing member that submits an order on a trade-by-trade basis. There are countless executing market participants, and each day such participants can and often do drop their connection to one market center and establish themselves as participants on another. It is virtually impossible for any exchange to identify each executing participant on a given trading day. Clearing members, however, are distinguished from executing participants because they remain identified to the Exchange regardless of the identity of the initiating executing participant, their location, and the market center on which they execute transactions. Therefore, the Exchange believes it is more efficient for the operation of the Exchange and for the marketplace as a whole to collect the ORF indirectly from members through their clearing firms.

The Exchange also believes that its broad regulatory responsibilities with respect to a member's activities supports

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Exchange rules require each member to submit trade information in order to allow the Exchange to properly prioritize and match orders and quotations and report resulting transactions to the OCC. *See* ISE Rule 712. The Exchange represents that it has surveillance in place to verify that members comply with the rule.

applying the ORF to transactions cleared but not executed by a member. The Exchange's regulatory responsibilities are the same regardless of whether a member executes a transaction or clears a transaction executed on its behalf. The Exchange regularly reviews all such activities, including performing surveillance for position limit violations, manipulation, front-running, contrary exercise advice violations and insider trading.

The Exchange further believes it is reasonable and appropriate for the Exchange to charge the ORF for options transactions regardless of the exchange on which the transactions occur. The Exchange has a statutory obligation to enforce compliance by members and their associated persons under the Act and the rules of the Exchange, and to surveil for other manipulative conduct by market participants (including non-members) trading on the Exchange. Many of the Exchange's market surveillance programs require the Exchange to look at and evaluate activity across all options markets, such as surveillance for position limit violations, manipulation, front-running and contrary exercise advice violations/expiring exercise declarations. The Exchange cannot effectively surveil for such conduct without looking at and evaluating activity across all options markets. Also, the Exchange and the other options exchanges are required to populate a consolidated options audit trail (''COATS'') system in order to surveil a member's activities across markets.[4]

The Exchange believes that charging the ORF across markets will avoid having members direct their trades to other markets in order to avoid the fee and to thereby avoid paying for their fair share for regulation. If the ORF did not apply to activity across markets then a member would send their orders to the least cost, least regulated exchange. Other exchanges do impose a similar fee on their member's activity, including the activity of those members on the ISE.[5]

The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange expects to monitor its regulatory costs and revenues at a minimum on an annual basis. If the Exchange determines regulatory revenues exceed regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission. The Exchange will notify members of adjustments to the ORF via circular.

2. Statutory Basis

The Exchange believes that its proposal to amend its Schedule of Fees is consistent with Section 6(b) of the Exchange Act[6] in general, and furthers the objectives of Section 6(b)(4) of the Exchange Act[7] in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and other persons using its facilities. The Exchange believes that the proposed fee is reasonable in that it would help the Exchange to ensure that revenue collected from the ORF, in combination with other regulatory fees and fines, does not exceed the Exchange's total regulatory costs in light of increased trading volumes. The Exchange has designed the ORF to generate revenues that, when combined with all of the Exchange's other regulatory fees, will be less than or equal to the Exchange's regulatory costs, which is consistent with the Commission's view that regulatory fees be used for regulatory purposes and not to support the Exchange's business.

The Exchange believes the ORF is equitable and not unfairly discriminatory because it is objectively allocated to members in that it is charged to all members on all their transactions that clear as customer at the OCC. Moreover, the Exchange believes the ORF ensures fairness by assessing fees to those members that require more Exchange regulatory services based on the amount of customer options business they conduct. Regulating customer trading activity is much more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity, which tends to be more automated and less labor-intensive. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component of its regulatory program (e.g., member proprietary transactions).

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues. Rather, the proposed rule change is designed to help the Exchange to adequately fund its regulatory activities while seeking to ensure that total regulatory revenues do not exceed total regulatory costs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and subparagraph (f)(2) of Rule 19b–4 thereunder,[9] because it establishes a due, fee, or other charge imposed by ISE.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2013–54 on the subject line.

[4] COATS effectively enhances intermarket options surveillance by enabling the options exchanges to promptly reconstruct the market to effectively surveil certain rules.

[5] *See e.g.* Securities Exchange Act Release Nos. 61133 (Dec. 9, 2009), 74 FR 66715 (December 16, 2009) (SR–Phlx–2009–100); 68711 (Jan. 23, 2013), 78 FR 6155 (Jan. 29, 2013) (SR–MIAX–2013–01)).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2013–54. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2013–54 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

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[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70871; File No. SR–NYSEArca–2013–118]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change, As Modified By Amendment No. 1 Thereto, To List and Trade of Shares of the Market Vectors Short High-Yield Municipal Index ETF Under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02

November 14, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 30, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. On November 8, 2013, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1 thereto, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02, the shares of the Market Vectors Short High-Yield Municipal Index ETF. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the Market Vectors Short High Yield Municipal Index ETF (''Fund'') under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02, which governs the listing and trading of Investment Company Units (''Units'') based on fixed income securities indexes.[5] The Fund is a series of the Market Vectors ETF Trust (''Trust'').[6]

Van Eck Associates Corporation will be the investment adviser (''Adviser'') for the Fund. Van Eck Securities Corporation will be the Fund's distributor (''Distributor''). Van Eck Associates Corporation also will be the administrator for the Fund (the ''Administrator''), and will be responsible for certain clerical, recordkeeping and/or bookkeeping services. The Bank of New York Mellon will be the custodian of the Fund's assets and provides transfer agency and fund accounting services to the Fund.

The investment objective of the Fund will be to seek to replicate as closely as possible, before fees and expenses, the price and yield performance of the Barclays Municipal High Yield Short Duration Index (the ''Short High Yield Index'' or ''Index''). The Fund

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] By Amendment No. 1, the Exchange: (1) Deleted a sentence relating to the Fund holding depositary receipts and to-be-announced transactions; (2) added a phrase that states that the Administrator, through the NSCC, will make available Indicative Per Share Portfolio Value on a continuous basis throughout the day; (3) made clarifying changes to reflect that the Fund will limit itself to holding up to 15% of its net assets in illiquid assets, not just illiquid securities; and (4) modified certain cross-references.

[5] The Commission previously has approved a proposed rule change relating to listing and trading on the Exchange of Units based on municipal bond indexes. *See* Securities Exchange Act Release No. 67985 (October 4, 2012), 77 FR 61804 (October 11, 2012) (SR–NYSEArca–2012–92) (order approving proposed rule change relating to the listing and trading of iShares 2018 S&P AMT-Free Municipal Series and iShares 2019 S&P AMT-Free Municipal Series under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02).

[6] On August 27, 2012, the Trust filed an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) and the Investment Company Act of 1940 (''1940 Act'') (15 U.S.C. 80a–1) (File Nos. 333–123257 and 811–10325) (the ''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 28021 (October 24, 2007) (File No. 812–13426) (''Exemptive Order'').

normally [7] will invest at least 80% of its total assets in securities that compose the Index. Depositary receipts or to-be-announced transactions (''TBAs'') [8] representing securities in the Short High Yield Index may be used by the Fund in seeking performance that corresponds to the Short High Yield Index, and in managing cash flows and may count towards the Fund's 80% policy.

The Fund, using a ''passive'' or indexing investment approach, will attempt to approximate the investment performance of the Index. The Adviser expects that, over time, the correlation between the Fund's performance before fees and expenses and that of the Index will be 95% or better. A figure of 100% would indicate perfect correlation. Because of the practical difficulties and expense of purchasing all of the securities in the Index, the Fund will not purchase all of the securities in the Index. Instead, the Adviser will utilize a ''sampling'' methodology in seeking to achieve the Fund's objective. As such, the Fund may purchase a subset of the bonds in the Index in an effort to hold a portfolio of bonds with generally the same risk and return characteristics of the Index.

Other Investments

While the Fund normally will invest at least 80% of its total assets in securities that compose the Index, the Fund may invest its remaining assets in other financial instruments, as described below.

The Fund may invest its remaining assets in securities not included in the Short High Yield Index, money market instruments, including repurchase agreements or other funds which invest exclusively in money market instruments, convertible securities,[9] structured notes (notes on which the amount of principal repayment and interest payments are based on the movement of one or more specified factors, such as the movement of a particular stock or stock index),[10] and certain derivative instruments that are mentioned below. The Fund may also invest, to the extent permitted by the 1940 Act, in other affiliated and unaffiliated funds, such as open-end or closed-end management investment companies, including other exchange-traded funds (''ETFs'').[11]

The Fund may invest in repurchase agreements with commercial banks, brokers or dealers to generate income from its excess cash balances and to invest securities lending cash collateral.

The Fund may use exchange-traded futures contracts and exchange-traded or over-the-counter (''OTC'') options thereon, together with positions in cash and money market instruments, to simulate full investment in the Index.

The Fund may use cleared or non-cleared index, interest rate or credit default swap agreements. Swap agreements are contracts between parties in which one party agrees to make payments to the other party based on the change in market value or level of a specified index or asset. The Adviser represents that currently interest rate swaps and credit default swaps on indexes are cleared. However, credit default swaps on a specific security are currently uncleared.

The Fund may invest in exchange-traded warrants, which are equity securities in the form of options issued by a corporation which give the holder the right to purchase stock, usually at a price that is higher than the market price at the time the warrant is issued.

The Fund may invest in participation notes, which are issued by banks or broker-dealers and are designed to offer a return linked to the performance of a particular underlying equity security or market.

The Fund will only enter into transactions in derivative instruments with counterparties that the Adviser reasonably believes are capable of performing under the contract and will post as collateral as required by the counterparty.[12]

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, in accordance with Commission guidance.[13] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[14]

Description of the Index

The Index is a market size weighted index composed of publicly traded municipal bonds that cover the U.S.

[7] The word ''normally'' means, without limitation, the absence of extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[8] A TBA transaction is a method of trading mortgage-backed securities. In a TBA transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount, and price. The actual pools delivered generally are determined two days prior to the settlement date.

[9] A convertible security is a bond, debenture, note, preferred stock, right, warrant or other security that may be converted into or exchanged for a prescribed amount of common stock or other security of the same or a different issuer or into cash within a particular period of time at a specified price or formula.

[10] Structured notes are derivative securities for which the amount of principal repayment and/or interest payments is based on the movement of one or more factors, including, but not limited to, currency exchange rates, interest rates (such as the prime lending rate or LIBOR), referenced bonds and stock indices.

[11] For purposes of this filing, ETFs include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). The ETFs all will be listed and traded in the U.S. on registered exchanges. The Fund may invest in the securities of ETFs registered under the 1940 Act consistent with the requirements of Section 12(d)(1) of the 1940 Act, or any rule, regulation or order of the Commission or interpretation thereof. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (*e.g.,* 2X, −2X, 3X or −3X) ETFs.

[12] The Fund will seek, where possible, to use counterparties, as applicable, whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Adviser will evaluate the creditworthiness of counterparties on a regular basis. In addition to information provided by credit agencies, the Adviser will review approved counterparties using various factors, which may include the counterparty's reputation, the Adviser's past experience with the counterparty and the price/market actions of debt of the counterparty.

[13] In reaching liquidity decisions, the Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[14] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the 1933 Act).

dollar denominated high yield short-term tax-exempt bond market. The majority of the Index's constituents are from the revenue sector, with some constituents being from the general obligation sector. The revenue sector is divided into industry sectors that consist of but may not be limited to electric, health care, transportation, education, water and sewer, resource recovery, leasing and special tax. As of December 31, 2012, the Index consisted of approximately 1,935 bonds and 530 unique issuers.[15]

The Index is calculated using a market value weighting methodology. Index constituents are capitalization-weighted, based on their current amount outstanding. The Index tracks the high yield municipal bond market with a 75% weight in non-investment grade municipal bonds and a 25% weight in Baa/BBB-rated investment grade municipal bonds. It is comprised of three total return, market size weighted benchmark indexes with weights as follows:

—50% weight in Muni High Yield/$100 Million Deal Size Index. To be included in the Muni High Yield/$100 Million Deal Size Index, bonds must be unrated or rated Ba1/BB+ or lower by at least two of the following rating agencies if all three rate the bond: Moody's Investors Service, Inc. (''Moody's''), Standard & Poor's, Inc. (''S&P'') and Fitch, Inc. (''Fitch''). If only two of the three agencies rate the security, the lower rating is used to determine index eligibility. If only one of the three agencies rates a security, the rating must be Ba1/BB+ or lower. Bonds in the Muni High Yield/$100 Million Deal Size Index must have an outstanding par value of at least $3 million and be issued as part of a transaction of at least $100 million.

—25% weight in Muni High Yield/Under $100 Million Deal Size Index. To be included in the Muni High Yield/Under $100 Million Deal Size Index, bonds must be unrated or rated Ba1/BB+ or lower by at least two of the following rating agencies if all three rate the bond: Moody's, S&P and Fitch. If only two of the three agencies rate the security, the lower rating is used to determine index eligibility. If only one of the three agencies rates a security, the rating must be Ba1/BB+ or lower. Bonds in the Muni High Yield/Under $100 Million Deal Size Index must have an outstanding par value of at least $3 million and be issued as part of a transaction of under $100 million but over $20 million.

—25% weight in Muni Baa-Rated/$100 Million Deal Size Index. To be included in the Muni Baa-Rated/$100 Million Deal Size Index, bonds must have a Barclays Index credit quality classification between Baa1/BBB+ and Baa3/BBB−. Barclays Index credit quality classification is based on the three rating agencies, Moody's, S&P and Fitch. If two of the three agencies rate the bond equivalently, then that rating is used. If all three rate the bond differently, the middle rating is used. If only two of the three agencies rate the security, the lower rating is used to determine index eligibility. If only one of the three agencies rates a security, the rating must be Baa1/BBB+, Baa2/BBB, or Baa3/BBB−. The bonds must have an outstanding par value of at least $7 million and be issued as part of a transaction of at least $100 million. Remarketed issues are not allowed in the benchmark.

All bonds must have a fixed rate, a dated-date after December 31, 1990 and a nominal maturity of 1 to 10 years. Taxable municipal bonds, bonds with floating rates and derivatives are excluded from the Index.

The composition of the Index is rebalanced monthly. Interest and principal payments earned by the component securities are held in the Index without a reinvestment return until month end when they are removed from the Index. Qualifying securities issued, but not necessarily settled, on or before the month end rebalancing date qualify for inclusion in the Index in the following month.

Total returns are calculated based on the sum of price changes, gain/loss on repayments of principal, and coupons received or accrued, expressed as a percentage of beginning market value. The Index is calculated and is available once a day.

The Exchange is submitting this proposed rule change because the Index for the Fund does not meet all of the ''generic'' listing requirements of Commentary .02(a) to NYSE Arca Equities Rule 5.2(j)(3) applicable to the listing of Units based on fixed income securities indexes. The Index meets all such requirements except for those set forth in Commentary .02(a)(2).[16] Specifically, as of November 27, 2012, 15.66% of the weight of the Index components have a minimum original principal amount outstanding of $100 million or more.

As of November 27, 2012, 72.21% of the weight of the Index components was composed of individual maturities that were part of an entire municipal bond offering with a minimum original principal amount outstanding of $100 million or more for all maturities of the offering. In addition, the total dollar amount outstanding of issues in the Index was approximately $757 billion and the average dollar amount outstanding of issues in the Index was approximately $394 million. Further, the most heavily weighted component represents 2.67% of the weight of the Index and the five most heavily weighted components represent 10.67% of the weight of the Index.[17] Therefore, the Exchange believes that, notwithstanding that the Index does not satisfy the criterion in NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 (a)(2), the Index is sufficiently broad-based to deter potential manipulation, given that it is composed of approximately 1,935 issues and 530 unique issuers. In addition, the Index securities are sufficiently liquid to deter potential manipulation in that a substantial portion (72.21%) of the Index weight is composed of maturities that are part of a minimum original principal amount outstanding of $100 million or more, and in view of the substantial total dollar amount outstanding and the average dollar amount outstanding of Index issues, as referenced above.

In addition, the average daily notional trading volume for Index components for the period from October 31, 2011 to October 31, 2012 was $2,839,895 and the sum of the notional trading volumes for the same period was $5,480,997,730.

The Index value, calculated and disseminated at least once daily, as well as the components of the Index and their percentage weighting, will be

[15] The Index is published by Barclays Capital, Inc. (''Index Provider''). The Index Provider is a registered broker-dealer and has implemented a fire wall with respect to its relevant personnel regarding access to information concerning the composition and/or changes to the Index. In addition, the Index Provider is affiliated with a broker-dealer and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Index. The Index Provider and its broker-dealer affiliate have implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Index.

[16] Commentary .02(a)(2) to NYSE Arca Equities Rule 5.2(j)(3) provides that components that in the aggregate account for at least 75% of the weight of the index or portfolio each shall have a minimum original principal amount outstanding of $100 million or more.

[17] Commentary .02(a)(4) to NYSE Arca Equities Rule 5.2(j)(3) provides that no component fixed-income security (excluding Treasury Securities and GSE Securities, as defined therein) shall represent more than 30% of the weight of the index or portfolio, and the five most heavily weighted component fixed-income securities in the index or portfolio shall not in the aggregate account for more than 65% of the weight of the index or portfolio.

available from major market data vendors. In addition, the portfolio of securities held by the Fund will be disclosed daily on the Fund's Web site at *www.marketvectorsetfs.com.*

The Exchange represents that: (1) Except for Commentary .02(a)(2) to NYSE Arca Equities Rule 5.2(j)(3), the Shares of the Fund currently satisfy all of the generic listing standards under NYSE Arca Equities Rule 5.2(j)(3); (2) the continued listing standards under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2) applicable to Units shall apply to the Shares; and (3) the Trust is required to comply with Rule 10A–3 under the Act [18] for the initial and continued listing of the Shares. In addition, the Exchange represents that the Shares will comply with all other requirements applicable to Units including, but not limited to, requirements relating to the dissemination of key information such as the value of the Index and the applicable Intraday Indicative Value (''IIV''),[19] rules governing the trading of equity securities, trading hours, trading halts, surveillance, and the Information Bulletin to Equity Trading Permit Holders (''ETP Holders''), as set forth in Exchange rules applicable to Units and prior Commission orders approving the generic listing rules applicable to the listing and trading of Units.[20]

The current value of the Index will be widely disseminated by one or more major market data vendors at least once per day, as required by NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 (b)(ii). The IIV for Shares of the Fund will be disseminated by one or more major market data vendors, updated at least every 15 seconds during the Exchange's Core Trading Session, as required by NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 (c).

Creation and Redemption of Shares

According to the Registration Statement, the Fund will issue and sell Shares only in ''Creation Units'' of 100,000 Shares or multiples thereof on a continuous basis through the Distributor, without an initial sales load, at their net asset value (''NAV'') next determined after receipt, on any business day, of an order in proper form.

The consideration for a purchase of Creation Units generally will consist of cash, in-kind, or a combination of cash and in-kind. The in-kind purchase of Creation Units will consist of the deposit of a designated portfolio of fixed income securities (the ''Deposit Securities'') that compose the Index and an amount of cash computed as described below (the ''Cash Component'') or, as permitted or required by the Fund, of the cash value of the Deposit Securities (the ''Deposit Cash'') and the Cash Component computed as described below. When accepting purchases of Creation Units for cash, the Fund may incur additional costs associated with the acquisition of Deposit Securities.

The Cash Component together with the Deposit Securities or the Deposit Cash, as applicable, are referred to as the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for Shares. The specified Deposit Securities generally will correspond, pro rata, to the extent practicable, to the component securities of the Fund's portfolio. The Cash Component represents the difference between the NAV of a Creation Unit and the market value of Deposit Securities and may include a ''Dividend Equivalent Payment''. The Dividend Equivalent Payment will enable the Fund to make a complete distribution of dividends on the next dividend payment date, and is an amount equal, on a per Creation Unit basis, to the dividends on all the securities held by the Fund (''Fund Securities'') with ex-dividend dates within the accumulation period for such distribution (the ''Accumulation Period''), net of expenses and liabilities for such period, as if all of the Fund Securities had been held by the Trust for the entire Accumulation Period. The Accumulation Period begins on the ex-dividend date for the Fund and ends on the next ex-dividend date.

The Trust may determine to issue Shares on an all cash basis (*i.e.,* in exchange for the Deposit Cash and the Cash Component) if the Trust and the Adviser believe such method would substantially minimize the Fund's transactional costs or would enhance the Fund's operational efficiencies. This may occur on days when a substantial rebalancing of the Fund's portfolio is required.

The Administrator, through the National Securities Clearing Corporation (''NSCC''), will make available on each business day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m. Eastern time), the list of the names and the required principal amounts of each Deposit Security to be included in the current Fund Deposit (based on information at the end of the previous business day) as well as the Cash Component for the Fund. Such Fund Deposit is applicable, subject to any adjustments as described in the Registration Statement, in order to effect creations of Creation Units of the Fund until such time as the next-announced Deposit Securities composition or the required amount of Deposit Cash, as applicable, is made available.

In addition to the list of names and numbers of securities constituting the current Deposit Securities of a Fund Deposit, the Administrator, through the NSCC, also will make available (i) on each business day, the Dividend Equivalent Payment, if any, and the estimated Cash Component effective through and including the previous business day, per outstanding Shares of the Fund, and (ii) on a continuous basis throughout the day, the Indicative Per Share Portfolio Value.

All orders to create Creation Units must be placed in multiples of 100,000 Shares of the Fund. All orders to create Creation Units must be received by the Distributor no later than the closing time of the close of the NYSE Core Trading Session NYSE Arca (''Closing Time'', ordinarily 4:00 p.m. Eastern time) on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of the Fund as determined on such date.

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor, only on a business day and only through a ''Participating Party'' or Depository Trust Company (''DTC'') Participant who has executed a ''Participant Agreement'', as described in the Registration Statement. The Trust will not redeem Shares in amounts less than Creation Units.

The Administrator, through NSCC, will make available immediately prior to the opening of business on the Exchange (currently 9:30 a.m. Eastern time) on each day that the Exchange is open for business, the Fund Securities that will be delivered to satisfy (subject to possible amendment or correction) redemption requests received in proper

[18] 17 CFR 240.10A–3.

[19] The IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session of 9:30 a.m. to 4:00 p.m., Eastern time. Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIVs taken from the Consolidated Tape Association (''CTA'') or other data feeds.

[20] *See, e.g.,* Securities Exchange Act Release Nos. 55783 (May 17, 2007), 72 FR 29194 (May 24, 2007) (SR–NYSEArca–2007–36) (order approving NYSE Arca generic listing standards for Units based on a fixed income index); 44551 (July 12, 2001), 66 FR 37716 (July 19, 2001) (SR–PCX–2001–14) (order approving generic listing standards for Units and Portfolio Depositary Receipts); 41983 (October 6, 1999), 64 FR 56008 (October 15, 1999) (SR–PCX–98–29) (order approving rules for listing and trading of Units).

form (as defined below) on that day. The Fund Securities generally will correspond, *pro rata,* to the extent practicable, to the component securities of the Fund's portfolio. If the Trust determines, based on information available to the Trust when a redemption request is submitted by an Authorized Participant, that (i) the short interest of the Fund in the marketplace is greater than or equal to 100% and (ii) redemption orders in the aggregate from all Authorized Participants on a business day represent 25% or more of the outstanding Shares of the Fund, such Authorized Participant will be required to verify to the Trust the accuracy of its representations that are deemed to have been made by submitting a request for redemption. If, after receiving notice of the verification requirement, the Authorized Participant does not verify the accuracy of its representations that are deemed to have been made by submitting a request for redemption in accordance with this requirement, its redemption request will be considered not to have been received in proper form.

Unless cash redemptions are permitted or required for the Fund, the redemption proceeds for a Creation Unit generally will consist of Fund Securities as announced by the Administrator on the business day of the request for redemption, plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities, less the redemption transaction fee and variable fees described below. An Authorized Participant may receive the cash equivalent of one or more Fund Securities because it was restricted from transacting in one or more Fund Securities. Should the Fund Securities have a value greater than the NAV of the Shares being redeemed, a compensating cash payment to the Trust equal to the differential plus the applicable redemption transaction fee will be required to be arranged for by or on behalf of the redeeming shareholder. The Fund reserves the right to honor a redemption request by delivering a basket of securities or cash that differs from the Fund Securities.

Orders to redeem Creation Units of the Fund must be delivered through a DTC Participant that has executed the Participant Agreement with the Distributor and with the Trust. A DTC Participant who wishes to place an order for redemption of Creation Units of the Fund to be effected need not be a Participating Party, but such orders must state that redemption of Creation Units of the Fund will instead be effected through transfer of Creation Units of the Fund directly through DTC. An order to redeem Creation Units of the Fund will be deemed received by the Administrator on the ''Transmittal Date'' if (i) such order is received by the Administrator not later than 4:00 p.m. Eastern time on such Transmittal Date; (ii) such order is preceded or accompanied by the requisite number of Shares of Creation Units specified in such order, which delivery must be made through DTC to the Administrator no later than 11:00 a.m. Eastern time, on such Transmittal Date (the ''DTC Cut-Off-Time''); and (iii) all other procedures set forth in the Participant Agreement are properly followed.

A standard creation and redemption transaction fee will be imposed to offset transfer and other transaction costs that may be incurred by the Fund.

All persons creating and redeeming Shares during a business day will be treated in the same manner with respect to payment of proceeds in-kind, in cash, or in a combination thereof.

Detailed descriptions of the Fund, the Index, procedures for creating and redeeming Shares, transaction fees and expenses, dividends, distributions, taxes, risks, and reports to be distributed to beneficial owners of the Shares can be found in the Registration Statements or on the Web site for the Fund (*www.marketvectorsetfs.com*), as applicable.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[21] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 5.2(j)(3). The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[22] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets that are members of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Index Provider is not a broker-dealer or affiliated with a broker-dealer and has implemented procedures designed to prevent the use and dissemination of material, non-public information regarding the Index. As of December 31, 2012, there were approximately 1935 issues in the Index. The Index meets all such requirements except for those set forth in Commentary .02(a)(2).[23] Specifically, as of November 27, 2012, 15.66% of the weight of the Index components have a minimum original principal amount outstanding of $100 million or more.

As of November 27, 2012, 72.21% of the weight of the Index components was composed of individual maturities that were part of an entire municipal bond offering with a minimum original principal amount outstanding of $100 million or more for all maturities of the offering. In addition, the total dollar amount outstanding of issues in the Index was approximately $757 billion and the average dollar amount outstanding of issues in the Index was approximately $394 million. Further, the most heavily weighted component represents 2.67% of the weight of the Index and the five most heavily weighted components represent 10.67% of the weight of the Index.[24] Therefore, the Exchange believes that, notwithstanding that the Index does not satisfy the criterion in NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 (a)(2), the Index is sufficiently

[21] 15 U.S.C. 78f(b)(5).

[22] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[23] *See* note 15 [sic] and accompanying text, *supra.*

[24] *See* note 16 [sic], *supra.*

broad-based to deter potential manipulation, given that it is composed of approximately 1,935 issues. In addition, the Index securities are sufficiently liquid to deter potential manipulation in that a substantial portion (72.21%) of the Index weight is composed of maturities that are part of a minimum original principal amount outstanding of $100 million or more, and in view of the substantial total dollar amount outstanding and the average dollar amount outstanding of Index issues, as referenced above. In addition, the average daily notional trading volume for Index components for the period from October 31, 2011 to October 31, 2012 was $2,839,895.20 and the sum of the notional trading volumes for the same period was approximately $5,480,997,730. The Index value, calculated and disseminated at least once daily, as well as the components of the Index and their respective percentage weightings, will be available from major market data vendors. In addition, the portfolio of securities held by the Fund will be disclosed on the Fund's Web site. The IIV for Shares of the Fund will be disseminated by one or more major market data vendors, updated at least every 15 seconds during the Exchange's Core Trading Session, According to the Registration Statements, The Adviser represents that bonds that share similar characteristics tend to trade similarly to one another; therefore, within these categories, the issues may be considered fungible from a portfolio management perspective. Within a single municipal bond issuer, the Adviser represents that separate issues by the same issuer are also likely to trade similarly to one another. In addition, the Adviser represents that individual CUSIPs within the Index that share characteristics with other CUSIPs have a high yield to maturity correlation, and frequently have a correlation of one or close to one.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. The Fund's portfolio holdings will be disclosed on the Fund's Web site daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. Moreover, the IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. The current value of the Index will be disseminated by one or more major market data vendors at least once per day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The Web site for the Fund will include the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. If the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. If the IIV or the Index values are not being disseminated as required, the Corporation may halt trading during the day in which the interruption to the dissemination of the applicable IIV or Index value occurs. If the interruption to the dissemination of the applicable IIV or Index value persists past the trading day in which it occurred, the Corporation will halt trading. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 7.34, which sets forth circumstances under which Shares of the Fund may be halted. In addition, investors will have ready access to information regarding the IIV, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, investors will have ready access to information regarding the IIV and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of exchange-traded product that holds municipal bonds and that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–NYSEArca–2013–118 on the subject line.

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEArca–2013–118. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca–2013–118 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27667 Filed 11–18–13; 8:45 am]

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[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70865; File No. SR–BATS–2013–057]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the BATS Competitive Liquidity Provider Program

November 13, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 12, 2013, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Interpretation and Policy .02 to Rule 11.8, entitled ''Competitive Liquidity Provider Program.''

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 30, 2011, the Exchange received approval of rules applicable to the qualification, listing and delisting of securities of issuers on the Exchange.[3] More recently, the Exchange received approval to operate a program that is designed to incentivize certain market makers registered with the Exchange as Competitive Liquidity Providers (''CLPs'') to enhance liquidity on the Exchange in Exchange-listed securities (the ''Competitive Liquidity Provider Program'' or ''CLP Program'').[4] The Exchange subsequently adopted financial incentives for the CLP Program[5] and thereafter amended certain of the financial incentives and criteria for the CLP Program.[6]

The purpose of this filing is to modify Interpretation and Policy .02 of Rule 11.8 regarding certain details around the implementation of the CLP Program. Specifically, effective December 1, 2013, the Exchange proposes to: (1) Award up to three CLPs, or more in the case of a tie, at each size event test (''SET'') with credits (''SET Credits'') based on their rank in aggregate size at the NBB or NBO at the time of the SET; (2) base the allocation of daily financial rewards on the number of SET Credits awarded to CLPs; (3) change the allocation of the daily financial rewards to a set dollar value per CLP in each class of security; and (4) make certain cleanup and clarifying changes to Interpretation and Policy .02 to Rule 11.8.

Increasing Winning SETs and Awarding SET Credits

The Exchange is proposing to award Winning Bid SETs[7] and Winning Offer SETs[8] (collectively, ''Winning SETs'') along with SET Credits to at least three CLPs each for the bid (''Bid SET Credits'') and offer (''Offer SET Credits'') based on a CLP's rank in aggregate size at the NBB or NBO at the time of a SET. Currently, only the CLP with the greatest aggregate size at the NBB and the CLP with the greatest aggregate size at the NBO at the time of a SET are considered to have a Winning Bid SET and a Winning Offer SET, respectively.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[4] *See* Securities Exchange Act Release No. 66307 (February 2, 2012), 77 FR 6608 (February 8, 2012) (SR–BATS–2011–051).

[5] *See* Securities Exchange Act Release No. 66427 (February 21, 2012), 77 FR 11608 (February 27, 2012) (SR–BATS–2012–011).

[6] *See* Securities Exchange Act Release Nos. 67854 (September 13, 2012), 77 FR 58198 (September 19, 2012) (SR–BATS–2012–036) and 69190 (March 20 2013), 78 FR 18384 (March 26, 2013) (SR–BATS–2013–005).

[7] As defined in Interpretation and Policy .02 (g)(1) to BATS Rule 11.8.

[8] *Id.*

CLPs are not currently awarded SET Credits.

The Exchange is proposing to amend Interpretation and Policy .02(g)(1) to Rule 11.8 such that the three CLPs with the greatest aggregate size at the NBB and the three CLPs with the greatest aggregate size at the NBO at the time of each SET will be considered to have a Winning SET. Where there is a tie, all CLPs with the same aggregate size at the NBB (NBO) will be considered to have a Winning Bid (Offer) SET if there are two or less CLPs that have greater aggregate size at the NBB (NBO). Additionally, all CLPs with a Winning SET will be awarded SET Credits based on the following: all CLPs with the greatest aggregate size at the NBB or NBO will receive three SET Credits; all CLPs with the second greatest aggregate size at the NBB or NBO will receive two SET Credits; and all CLPs with the third greatest aggregate size at the NBB will receive one SET Credit.

For example:

CLP	Shares at NBB
CLP1	1,000
CLP2	900
CLP3	800
CLP4	800

Here, all four CLPs will have a Winning Bid SET because CLP1 and CLP2 are both two of the top three CLPs with the greatest aggregate size at the NBB, while CLP3 and CLP4 are tied at 800 shares and there are only two CLPs that have greater aggregate size at the NBB than 800 shares. CLP1 would receive three Bid SET Credits, CLP2 would receive two Bid SET Credits, and CLP3 and CLP4 would each receive one Bid SET Credit.

However, if CLP3 had 900 shares at the NBB and all other CLPs remained the same, only CLP1, CLP2, and CLP3 would have a Winning SET because CLP2 and CLP3 would be tied and there is only one CLP that has greater aggregate size than 900 shares (CLP1). CLP4 would have the fourth greatest aggregate size at the NBB among CLPs and thus would not qualify for a Winning SET. In this instance, CLP1 would receive three Bid SET Credits, CLP2 and CLP3 would each receive two Bid SET Credits, and CLP4 would not receive any Bid SET Credits.

Finally, if CLP1, CLP2, CLP3, and CLP4 all had 1,000 shares at the NBB, the four CLPs would each receive three Bid SET Credits. In this scenario, if another CLP (''CLP5'') had 900 shares at the NBB, CLP5 would not qualify for a Winning SET and would not receive any Bid SET Credits because more than two CLPs have greater aggregate size at the NBB than the 900 shares posted by CLP5.

The above examples would operate in an identical fashion for the NBO.

Determining the Recipients of the Daily Financial Rewards

The Exchange is also proposing to amend its Rules in order to base the allocation of daily financial rewards associated with the CLP Program on SET Credits instead of Winning SETs. Currently, the daily financial reward for Tier I securities [9] and ETPs [10] is awarded to the two CLPs with the most Winning Bid SETs and the two CLPs with the most Winning Offer SETs. For Tier II securities,[11] the daily financial reward is awarded to the CLP with the most Winning Bid SETS and the CLP with the most Winning Offer SETs.

The Exchange proposes to amend Interpretation and Policy .02 (k)(1) of BATS Rule 11.8 to provide that the daily financial reward for all securities participating in the Program will be based on SET Credits. Specifically, the Exchange proposes that the daily financial reward for Tier I securities and ETPs be awarded to the two CLPs with the most Bid SET Credits and the two CLPs with the most Offer SET Credits and for the daily financial reward for Tier II securities to be awarded to the CLP with the most Bid Set Credits and the CLP with the most Offer SET Credits. The Exchange notes that it is not proposing to change the daily quoting requirement that a CLP have Winning Bid SETs or Winning Offer SETs equal to at least 10% of the total Bid SETs or total Offer SETs in a security in order to be eligible for the daily financial reward.

Allocating the Daily Financial Rewards

The Exchange also proposes to change the allocation of the daily financial rewards to a specified amount per CLP in each class of security. Currently, the daily financial rewards for Tier I securities and ETPs are allocated to the two CLPs with the most Winning Bid SETs and the two CLPs with the most Winning Offer SETs on a pro rata basis, based on the combined sum of the two CLPs' Winning SETs. The financial rewards for Tier II securities are allocated to the single CLP with the most Winning Bid SETs and the single CLP with the most Winning Offer SETs.

The Exchange proposes to amend Interpretation and Policy .02 (k)(1) of BATS Rule 11.8 in order to allocate the daily financial rewards to CLPs on a pre-determined basis rather than on a pro rata basis. Specifically, the Exchange is proposing to allocate the daily financial rewards as follows: (i) For the six months after initial listing on the Exchange in Tier I securities, the CLPs with the most and second most SET Credits will receive $150 and $100, respectively, for both the bid and the offer; and (ii) for Tier I securities that have been listed on the Exchange for more than six months and for ETPs, the CLPs with the most and second most SET Credits will receive $75 and $50, respectively, for both the bid and the offer. For Tier II securities, the CLP with the most SET Credits will continue to receive 100% of the daily financial reward for both the bid and the offer.

Cleanup Changes

The Exchange also proposes to make several cleanup and clarifying changes to Interpretation and Policy .02 of BATS Rule 11.8. These changes include the following: (i) adding ''the time of'' between ''aggregate size at the NBB at'' and ''each SET'' to paragraph (g)(1); (ii) adding ''the time of'' between ''aggregate size at the NBO at'' and ''each SET'' to paragraph (g)(1); (iii) adding the word ''to'' between the words ''order'' and ''meet'' in paragraph (g)(1)(A); (iv) to capitalize the ''b'' in each instance of ''bid SET'' that is not capitalized in paragraph (k)(1); and (v) to capitalize the ''o'' in each instance of ''offer SET'' that is not capitalized in paragraph (k)(1).

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[12] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[13] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The Exchange also believes that the combination of fixed financial rewards (rather than awarding financial rewards on a pro rata basis) and awarding SET Credits to three CLPs per SET for the bid and offer will promote tighter spreads and deeper liquidity for all market participants by incentivizing multiple CLPs to quote at the NBBO. More

[9] As defined in BATS Rule 14.8.

[10] As defined in Interpretation and Policy .02(d)(2) of BATS Rule 11.8.

[11] As defined in BATS Rule 14.9.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

specifically, the Exchange believes that implementing fixed financial rewards will incentivize additional CLPs to continue to provide liquidity even where one CLP is winning the majority of SETs, while awarding three CLPs with SET Credits for each SET will incentivize multiple CLPs to add liquidity at or inside the NBBO even if another CLP consistently has greater liquidity at the NBBO than the other CLP. The Exchange believes that this will foster greater competition and participation among CLPs which, as outlined above, will enhance market quality to the benefit of all market participants.

Further, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[14] in that it provides for the equitable allocation of reasonable dues, fees and other charges, and is not unfairly discriminatory. The Exchange believes that the proposed changes are reasonable and equitably allocated because, while the proposal does lower the potential high-end of the daily financial reward available to the CLP with the most SET Credits, it will incentivize additional CLPs to continue to provide liquidity even where one CLP is winning the majority of SETs, which, as described above, will foster greater competition among CLPs and enhance market quality to the benefit of all market participants. The Exchange also believes that the proposal is not unfairly discriminatory because registration as a market maker and, in turn, a CLP, is equally available to all Members that satisfy the requirements of Rule 11.8.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposal will merely improve the incentives and, in turn, the results, of its CLP Program. The Exchange believes that the proposed changes will enhance competition amongst participants in the CLP Program.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[14] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16]

The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative on December 1, 2013. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Doing so will allow the Exchange to promptly implement the proposed amendments to the CLP Program, which amendments the Exchange believes will benefit both CLPs and market participants generally by incentivizing CLPs to provide tighter spreads and deeper liquidity, as well as by providing additional clarity around existing Exchange rules. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BATS–2013–057 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BATS–2013–057. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BATS–2013–057 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27631 Filed 11–18–13; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70860; File No. SR–NASDAQ–2013–138]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Modifications to Fees and Rebates Under Rules 7014 and 7018

November 13, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on November 1, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to make modifications to its Qualified Market Maker (''QMM'') and NBBO Setter Incentive pricing incentive programs under Rule 7014 and the pricing for its Retail Price Improvement (''RPI'') program under Rule 7018(g), and to make other changes to NASDAQ's schedule of fees and credits applicable to execution and routing of orders in securities priced at $1 or more per share. NASDAQ proposes to implement the proposed rule change on November 1, 2013. The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

QMM and NBBO Setter Incentive Programs

Under NASDAQ's QMM Program, a member may be designated as a QMM with respect to one or more of its market participant identifiers (''MPIDs'') if:

- The member is not assessed any ''Excess Order Fee'' under Rule 7018 during the month; [3] and
- Through such MPID the member quotes at the national best bid or best offer (''NBBO'') at least 25% of the time during regular market hours [4] in an average of at least 1,000 securities per day during the month.[5]

A member that is a QMM with respect to a particular MPID (a ''QMM MPID'') is eligible to receive certain financial benefits, as fully described in Rule 7014. One of these benefits pertains to the credits available under NASDAQ's NBBO Setter Incentive Program. Under that program, NASDAQ provides an enhanced liquidity provider rebate with respect to displayed liquidity-providing orders that set the NBBO or cause NASDAQ to join another trading center with a protected quotation at the NBBO. The NBBO Setter Incentive credit is paid on a monthly basis, and the amount is determined by multiplying the applicable rate by the number of shares of displayed liquidity provided to which a particular rate applies.[6] Currently, a member receives an NBBO Setter Incentive credit at a $0.0005 rate with respect to orders that qualify for the NBBO Setter Incentive Program (*i.e.,* displayed orders with a size of at least one round lot that set the NBBO or join another trading center at the NBBO) and that are entered through a QMM MPID; provided that the QMM also has a volume of liquidity provided through the QMM MPID (as a percentage of Consolidated Volume [7]) that exceeds *the lesser of* the volume of liquidity provided through such QMM MPID during the first month in which the MPID qualified as a QMM MPID (as a percentage of Consolidated Volume) *or* 1.0% of Consolidated Volume.[8] If a QMM does not satisfy these volume requirements, it receives an NBBO Setter Incentive credit of $0.0002 per share executed with respect to orders that qualify for the NBBO Setter Incentive Program.

NASDAQ is proposing to modify the program to eliminate the $0.0005 credit, such that a credit of $0.0002 per share executed would be paid with respect to all orders entered through a QMM MPID that displayed a quantity of at least one round lot at the time of execution and either established the NBBO or was the first order posted on NASDAQ that had the same price as an order posted at another trading center with a protected quotation that established the NBBO. The change reflects ongoing efforts to reduce costs in a period of persistent low trading volumes.

Retail Price Improvement Program Pricing

Under the RPI Program, a member (or a division thereof) approved by the Exchange to participate in the program (a ''Retail Member Organization'' or ''RMO'') may submit designated ''Retail Orders'' [9] for the purpose of seeking

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Rule 7018(m). In 2012, NASDAQ introduced an Excess Order Fee, aimed at reducing inefficient order entry practices of certain market participants that place excessive burdens on the systems of NASDAQ and its members and that may negatively impact the usefulness and life cycle cost of market data. In general, the determination of whether to impose the fee on a particular MPID is made by calculating the ratio between (i) entered orders, weighted by the distance of the order from the NBBO, and (ii) orders that execute in whole or in part. The fee is imposed on MPIDs that have an ''Order Entry Ratio'' of more than 100.

[4] Defined as 9:30 a.m. through 4:00 p.m., or such shorter period as may be designated by NASDAQ on a day when the securities markets close early (such as the day after Thanksgiving).

[5] A member MPID is considered to be quoting at the NBBO if it has a displayed order (other than a Designated Retail Order, as defined in Rule 7018) at either the national best bid or the national best offer or both the national best bid and offer. On a daily basis, NASDAQ will determine the number of securities in which the member satisfied the 25% NBBO requirement. To qualify for QMM designation, the MPID must meet the requirement for an average of 1,000 securities per day over the course of the month. Thus, if a member MPID satisfied the 25% NBBO requirement in 900 securities for half the days in the month, and satisfied the requirement for 1,100 securities for the other days in the month, it would meet the requirement for an average of 1,000 securities.

[6] The credit is in addition to any other credit for which the member may qualify; provided, however, that if a QMM is eligible to receive both an NBBO Setter Incentive credit and a credit under NASDAQ's Investor Support Program, it will receive the larger of these two credits but not both. In addition, a member is not eligible to receive an NBBO Setter Incentive credit with respect to a Designated Retail Order.

[7] ''Consolidated Volume'' means the consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month.

[8] QMMs have also received the $0.0005 per share rate during the first month in which an MPID becomes a QMM MPID.

[9] A Retail Order is defined in NASDAQ Rule 4780(a)(2) as an agency or riskless principal order that originates from a natural person and is submitted to Nasdaq by a Retail Member

price improvement. All NASDAQ members may enter retail price improvement orders (''RPI Orders''),[10] a form of non-displayed orders that are priced more aggressively than the Protected NBBO by at least $0.001 per share, for the purpose of offering such price improvement. RMOs may use two types of Retail Order. A Type 1 Retail Order is eligible to execute only against RPI Orders and other orders (such as midpoint pegged orders) that will provide price improvement. Type 2 Retail Orders interact first with available RPI Orders and other price improving orders, and then are eligible to access non-price improving liquidity on the NASDAQ book and to route to other trading venues if so designated.

NASDAQ currently offers a rebate of $0.0025 per share executed to RMOs for Retail Orders that execute against RPI Orders or other orders providing price improvement with respect to the NBBO. NASDAQ is proposing to reduce this rebate to $0.0005 per share executed. For RPI Orders that provide liquidity, NASDAQ currently charges a fee of $0.0020 per share executed, which NASDAQ proposes to reduce to $0.0010 per share executed. Other charges with respect to the program remain unchanged. The change is designed to eliminate ''inverted'' pricing that was introduced at the commencement of the program, under which Retail Orders were paid a credit that exceeded the charge assessed against RPI Orders.

Other Fee Changes

Currently, NASDAQ provides a credit of $0.0029 per share executed for displayed orders that provide liquidity if a member (i) has shares of liquidity provided in all securities during the month representing more than 0.15% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) Total Volume, as defined in Chapter XV, Section 2 of the Nasdaq Options Market (''NOM'') rules,[11] of 100,000 or more contracts per day executed during the month through one or more of its NOM MPIDs. NASDAQ is proposing a new tier under which it will also provide a credit of $0.0029 per share executed for displayed orders that provide liquidity if a member (i) has shares of liquidity provided in all securities during the month representing more than 0.10% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) adds Total NOM Market Maker Volume, as defined in Chapter XV, Section 2 of the NOM rules, of 90,000 or more contracts per day executed during the month through one or more of its NOM MPIDs. Thus, as compared with the current tier, the new tier would be available to members that are NOM Market Makers and would require a lower Consolidated Volume, but would require volume on NOM that adds liquidity.

Similarly, NASDAQ is amending an existing tier, under which NASDAQ provides a credit of $0.0030 per share executed for displayed orders that provide liquidity if a member (i) has shares of liquidity provided in all securities during the month representing at least 0.45% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) qualifies for the Penny Pilot Tier 8 Customer and Professional Rebate to Add Liquidity under Chapter XV, Section 2 of the NOM rules during the month through one or more of its NOM MPIDs. A NOM Participant may qualify for the Tier 8 Customer and Professional Rebate if it (i) has Total Volume of 200,000 or more contracts per day in a month, of which 70,000 or more contracts per day in a month are Customer and/or Professional liquidity, or (ii) adds Customer and/or Professional liquidity of 1.00% or more of national customer volume in multiply-listed equity and ETF options classes in a month.[12] NASDAQ is proposing to modify the criterion for this tier pertaining to Consolidated Volume by reducing the required percentage from 0.45% to 0.40%.

As with existing tiers that require participation in both the Nasdaq Market Center and NOM, these tiers recognize the prevalence of trading in which members simultaneously trade different asset classes within the same strategy. Because cash equities and options markets are linked, with liquidity and trading patterns on one market affecting those on the other, NASDAQ believes that pricing incentives that encourage market participant activity in NOM also support price discovery and liquidity provision in the Nasdaq Market Center. The changes enhance these incentives by creating a new tier and reducing the requirement for participation in another existing tier.

For members trading securities listed on NASDAQ, NASDAQ currently pays a rebate of $0.0020 per share executed for a member with shares of liquidity provided in all securities during the month representing less than 0.10% of Consolidated Volume, provided that the member provides a daily average of at least 250,000 shares of liquidity in securities listed on an exchange other than NASDAQ. Without modifying the existing criteria, NASDAQ is proposing to make this tier also available to any member that routes a daily average volume of at least 10,000 shares during the month using the QDRK routing strategy. The modified tier will also apply only to trading of securities listed on NASDAQ. QDRK is a routing option under which orders check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table that are not posting Protected Quotations within the meaning of Regulation NMS.[13] Thus, the strategy is generally used to route to dark pools. Through the proposed change, NASDAQ hopes to (i) encourage greater use of its router and (ii) allow the smaller firms that generally use exchange-provided routing to receive a higher rebate than would otherwise by the case as a means of encouraging them to provide greater liquidity in securities listed on NASDAQ.

Organization, provided that no change is made to the terms of the order with respect to price (except in the case that a market order is changed to a marketable limit order) or side of market and the order does not originate from a trading algorithm or any other computerized methodology.

[10] A Retail Price Improvement Order is defined in NASDAQ Rule 4780(a)(3) as consisting of non-displayed liquidity on NASDAQ that is priced better than the Protected NBBO by at least $0.001 and that is identified as such.

[11] ''Total Volume'' is defined as Customer, Professional, Firm, Broker-Dealer, Non-NOM Market Maker and NOM Market Maker volume in Penny Pilot Options and Non-Penny Pilot Options that either adds or removes liquidity on NOM. The term ''Customer'' applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (''OCC'') that is not for the account of broker or dealer or for the account of a ''Professional'' (as that term is defined in Chapter I, Section 1(a)(48) of the NOM Rules). The term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). The term ''Non-NOM Market Maker'' means a registered market maker on another options exchange that is not a NOM Market Maker. The term ''NOM Market Maker'' means a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2 of the NOM Rules, and must also remain in good standing pursuant to Chapter VII, Section 4 of the NOM Rules. The term ''Firm'' applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC. The term ''Broker-Dealer'' applies to any transaction that is not subject to any of the other transaction fees applicable within a particular category.

[12] Effective November 1, 2013, NOM eliminated an additional prong, under which a NOM Participant could qualify for Tier 8 if it had Total Volume of 325,000 or more contracts per day in a month. SR–NASDAQ–2013–136 (October 30, 2013).

[13] If shares remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

Finally, NASDAQ is proposing to eliminate an existing pricing tier for Designated Retail Orders. A Designated Retail Order is defined as an agency or riskless principal [14] order that originates from a natural person and is submitted to NASDAQ by a member that designates it pursuant to Rule 7018, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. Currently, if a member enters Designated Retail Orders through an MPID through which (i) at least 90% of the shares of liquidity provided during the month are provided through Designated Retail Orders, and (ii) the member accesses, provides, or routes shares of liquidity that represent at least 0.10% of Consolidated Volume during the month, the member receives a credit of $0.0034 per share executed for Designated Retail Orders that provide liquidity if they are displayed orders. For all other Designated Retail Orders that are displayed orders and that provide liquidity, the credit is $0.0033 per share executed. Under the proposed change, the $0.0034 per share executed tier will be eliminated, so that the credit will be $0.0033 per share executed with respect to all Designated Retail Orders. In recent months, no market participants have qualified for this tier, so NASDAQ believes that it can be eliminated with no impact on member fees and credits.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[15] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[16] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The change with respect to the NBBO Setter Incentive credit paid to QMMs is reasonable because it merely serves to limit the extent of the incentives associated with the programs, thereby causing the credits received by program participants to become more consistent with credits received by members that are not participants, while maintaining an incentive structure designed to benefit all market participants by encouraging quoting at or near the NBBO in a wide range of securities. NASDAQ hopes thereby to maintain the benefits associated with the programs while reducing their costs and making the programs sustainable in the longer term. The change is also reasonable because it does not alter the fact that QMMs continue to be provided a discount as compared with other members, thereby resulting in lower overall fees for QMMs. The change is consistent with an equitable allocation of fees because it maintains, but reduces the cost of, an incentive designed to benefit all market participants by encouraging members to quote at the NBBO in a significant number of securities and to allow NASDAQ to set or join the NBBO. The change is not unfairly discriminatory because it will make the credits received by QMMs more consistent with the credits provided to other members, while continuing to recognize the beneficial contributions of market participants that quote at the NBBO.

The changes with respect to the RPI program are reasonable because they are intended to eliminate an instance of inverted pricing. While it may be reasonable for exchanges to invert pricing in limited circumstances as a promotional incentive to use a new service, NASDAQ does not believe that the Act could be construed to require inverted pricing to be maintained indefinitely, since it results in a loss to the Exchange on each transaction to which it applies. The proposed credit of $0.0005 per share executed with respect to Retail Orders that access liquidity offering price improvement is reasonable because it will continue to result in a reduction of fees with respect to such orders, as compared with the fees that would be charged in the absence of the program, thereby reducing the costs of members that represent retail customers and that take advantage of the program, and potentially also reducing costs to the customers themselves.[17] The change is consistent with an equitable allocation of fees because it will make the credit provided less disparate from the fees charged to other market participants to access liquidity, while still serving to encourage greater retail participation in NASDAQ. Because retail orders are likely to reflect long-term investment intentions, they promote price discovery and dampen volatility, and their presence in the NASDAQ market has the potential to benefit all market participants. NASDAQ further believes that the proposed credit is not unreasonably discriminatory because it is offered to firms representing retail customers without regard to the firm's trading volumes.

The proposed fee with respect to an RPI Order that provides liquidity is reasonable because, as previously recognized by the Commission, it reflects the fact that markets often seek to distinguish between orders of individual retail investors and orders of professional traders.[18] In this instance, the RPI seeks to balance the consideration that ''retail investors may on average be less informed about short-term price movements . . . [than] professional traders'' [19] with a fee charged to liquidity providers and a program designed to provide retail investors with price improvement and favorable execution prices. The reduction in the fee charged is reasonable because it will reduce charges to liquidity providers and thereby may encourage greater use of RPI Orders to provide liquidity. NASDAQ further believes that the fee change is equitable and not unreasonably discriminatory because even though these orders are charged a fee, while other liquidity providing orders are provided a credit, the use of such orders by liquidity providers is voluntary. Firms that believe that potential advantages of interacting with Retail Orders outweigh the costs of price improvement and the fee charged by NASDAQ will employ this order type. Those that do not are free to forego involvement in the program and receive a rebate under NASDAQ's standard price schedule when providing liquidity. Finally, however, the change serves to reduce the disparity between the fee charged and the credit otherwise provided, consistent with the overall goal of eliminating inverted pricing under the RPI program.

The new tier for members active in both the NASDAQ Market Center and NOM, as well as the modification of one of the criteria for an existing tier, are reasonable because they reflect the

[14] To qualify as a Designated Retail Order, a riskless principal order must satisfy the criteria set forth in FINRA Rule 5320.03. These criteria include that that the member maintain supervisory systems to reconstruct, in a time-sequenced manner, all orders that are entered on a riskless principal basis; and the member submits a report, contemporaneously with the execution of the facilitated order, that identifies the trade as riskless principal.

[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(4) and (5).

[17] The credit is comparable to the credit paid by the New York Stock Exchange under its Retail Liquidity Program. See *http://usequities.nyx.com/markets/nyse-equities/trading-fees.*

[18] Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40763, 40769–40680 (July 10, 2012) (SR–NYSE–2011–55; SR–NYSEAmex–2011–84).

[19] *Id.*

availability of a significant price reduction for members that support liquidity on both markets. The changes are consistent with an equitable allocation of fees because the pricing tiers require significant levels of liquidity provision, which benefits all market participants, and because activity in NOM also supports price discovery and liquidity provision in the NASDAQ Market Center due to the increasing propensity of market participants to be active in both markets and the influence of each market on the pricing of securities in the other. Moreover, the changes have the potential to make the applicable credits available to a wider range of market participants by introducing an additional means of qualification, in the case of the new tier, and reducing the threshold for qualification, in the case of the existing tier. The changes are not unreasonably discriminatory because market participants may qualify for a comparable or a higher rebate through alternative means that do not require participation in NOM, including through existing volume-based NASDAQ Market Center tiers, the use of Designated Retail Orders, or through a combination of qualification for volume-based tiers and participation in the ISP.

The change with respect to the existing tier providing a credit of $0.0020 per share executed is reasonable because it will increase the liquidity provider credit for an additional group of members without restricting availability to those currently qualifying. Specifically, the credit is currently available to members without an overall volume requirement (*i.e.,* those providing less than 0.10% of Consolidated Volume), as long as they provide a daily average of at least 250,000 shares of liquidity in securities listed on an exchange other than NASDAQ; the change would broaden availability to those that route a daily average volume of at least 10,000 shares per day using the QDRK routing strategy. The change is consistent with an equitable allocation of fees because it will result in a higher credit being paid to the smaller firms that generally use exchange-provided routing services, in exchange for modest usage of those services. The change is not unfairly discriminatory, because it is available to any member able to route a volume of 10,000 shares per day, a volume level achievable by almost any market participant.

The change with respect to pricing for Designated Retail Orders is reasonable because although it will eliminate the availability of a rebate tier, NASDAQ still provides a very high rebate of $0.0033 per share executed for Designated Retail Orders, which is higher than the highest rebate tier available for other orders that provide liquidity (of $0.00305 per share executed). Moreover, the change is consistent with an equitable allocation of fees and not unfairly discriminatory because in recent months, no market participants have qualified for the tier. Accordingly, the change will not have an actual impact on the credits paid to members that submit Designated Retail Orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[20] NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, NASDAQ must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and rebates in response, and because market participants may readily adjust their order routing practices, NASDAQ believes that the degree to which fee or rebate changes in this market may impose any burden on competition is extremely limited. In this instance, several of the changes—specifically, the changes to tiers with respect to members active in NASDAQ and NOM, the broadening of the $0.0020 per share credit to members using QDRK, and the fee reduction for RPI orders—will serve to decrease members' costs, thereby enhancing NASDAQ's competitiveness. Moreover, although the modifications to Designated Retail Orders, Retail Orders under the RPI program, and the QMM and NBBO Setter Incentive programs all serve to limit the availability of certain favorable credits, the associated programs all remain in place and are themselves reflective of the need for exchanges to offer significant financial incentives to attract order flow. If any of the changes are unattractive to market participants, it is likely that NASDAQ will lose market share as a result. Thus, NASDAQ does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective pursuant to Section 19(b)(3)(A) of the Act[21] and paragraph (f) of Rule 19b–4[22] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2013–138 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–138. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the

[20] 15 U.S.C. 78f(b)(8).

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f).

Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–138 and should be submitted on or before December 10, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–27626 Filed 11–18–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In The Matter of: Sovereign Lithium, Inc.; Order of Suspension of Trading

November 15, 2013.

It appears to the Securities and Exchange Commission that the public interest and the protection of investors require a suspension of trading in the securities of Sovereign Lithium, Inc. (''Sovereign Lithium'') because of concerns regarding the accuracy and adequacy of information in the marketplace and potentially manipulative transactions in Sovereign Lithium's common stock. Sovereign Lithium is a Delaware corporation based in Denver, Colorado. It is quoted on OTC Link under the symbol SLCO.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EST on November 15, 2013 through 11:59 p.m. EST on November 29, 2013.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–27807 Filed 11–15–13; 4:15 pm]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

DeltaPoint Capital IV, L.P.; License No. 02/02–0662; Notice Seeking Exemption Under the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that DeltaPoint Capital IV, L.P., 45 East Avenue, 6th Floor, Rochester, NY 14604, Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which constitute conflicts of interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). DeltaPoint Capital IV, L.P. provided financing to BioMaxx, Inc., 1 Fishers Road, Suite 160, Pittsford, NY 14534. The financing was contemplated for working capital purposes.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because DeltaPoint Capital IV (New York), L.P., an Associate of DeltaPoint Capital IV, L.P., owns more than ten percent of BioMaxx, Inc.

Therefore, this transaction is considered a financing of an Associate requiring an exemption. Notice is hereby given that any interested person may submit written comments on the transaction within fifteen days of the date of this publication to the Associate Administrator for Investment and Innovation, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Javier E. Saade,

Associate Administrator for Investment & Innovation.

[FR Doc. 2013–27646 Filed 11–18–13; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13768 and #13769]

Colorado Disaster Number CO–00065

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 5.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Colorado (FEMA–4145–DR), dated 09/14/2013.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 09/11/2013 through 09/30/2013.

Effective Date: 11/05/2013.

Physical Loan Application Deadline Date: 12/02/2013.

EIDL Loan Application Deadline Date: 06/16/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Colorado, dated 09/14/2013 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 12/02/2013.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–27642 Filed 11–18–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13814 and #13815]

North Dakota Disaster #ND–00040

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of North Dakota (FEMA–4154–DR), dated 10/31/2013.

Incident: Severe Winter Storm

Incident Period: 10/04/2013 through 10/05/2013.

Effective Date: 10/31/2013.

Physical Loan Application Deadline Date: 12/30/2013.

Economic injury (EIDL) loan application deadline date: 07/31/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 10/31/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Adams, Bowman, Grant, Hettinger, Morton, Sioux, Slope.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13814B and for economic injury is 13815B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–27643 Filed 11–18–13; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 8526]

U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

DATES: *Time and Date:* Monday, December 2, 2013, 2 p.m.–4 p.m.

Place: Capitol Visitor's Center, Room SVC203–02, First St. SE., Washington, DC 20515

Status: Commission Meeting—Open to the Public.

The U.S. Advisory Commission on Public Diplomacy will hold a public meeting from 2:00 p.m. to 4:00 p.m. on Monday, December 2, 2013 in Room SVC203–02 of the Capitol Visitor's Center at First St. SE., Washington, DC 20515.

The meeting's topic will be on ''The State of Public Diplomacy in 2014'' and will include representatives from the audit and research community to review the main challenges and opportunities for public diplomacy in the coming year. The Commission will also introduce its work plan for 2014.

This meeting is open to the public, Members and staff of Congress, the State Department, Defense Department, the media, and other governmental and non-governmental organizations. To attend or request further information, including any requests for reasonable accommodation, contact Katherine Brown at *BrownKA4@state.gov* by 5 p.m. on Wednesday, November 27, 2013. Please arrive for the meeting by 1:45 p.m. to allow for a prompt meeting start.

The United States Advisory Commission on Public Diplomacy appraises U.S. Government activities intended to understand, inform, and influence foreign publics. The Advisory Commission may conduct studies, inquiries, and meetings, as it deems necessary. It may assemble and disseminate information and issue reports and other publications, subject to the approval of the Chairperson, in consultation with the Executive Director. The Advisory Commission may undertake foreign travel in pursuit of its studies and coordinate, sponsor, or oversee projects, studies, events, or other activities that it deems desirable and necessary in fulfilling its functions.

The Commission consists of seven members appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor, business, and professional backgrounds. Not more than four members shall be from any one political party. The President designates a member to chair the Commission.

The current members of the Commission are: Mr. William Hybl of Colorado, Chairman; Ambassador Lyndon Olson of Texas, Vice Chairman; Mr. Sim Farar of California, Vice Chairman; Ambassador Penne Korth-Peacock of Texas; Ms. Lezlee Westine of Virginia; and Anne Terman Wedner of Illinois. One seat on the Commission is currently vacant.

The following individual has been nominated to the Commission but awaits Senate confirmation as of this writing: Alfredo Balsera of Florida.

This announcement might appear in the **Federal Register** less than 15 days prior to the meeting. The Department of State finds an exceptional circumstance in that this advisory committee meeting must be held on December 2, 2013, to accommodate the schedules of the Commission members and to introduce the 2014 work plan prior to the start of the holiday season, when travel arrangements and scheduling might be challenging.

Dated: November 14, 2013.

Katherine Brown,

Executive Director, Department of State.

[FR Doc. 2013–27816 Filed 11–18–13; 8:45 am]

BILLING CODE 4710–11–P

SUSQUEHANNA RIVER BASIN COMMISSION

Commission Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold its regular business meeting on December 12, 2013, in Annapolis, Maryland. Details concerning the matters to be addressed at the business meeting are contained in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: December 12, 2013, at 8:30 a.m.

ADDRESSES: Lowe House Office Building, House of Delegates, Prince George's Delegation (Room #150), 6 Bladen Street, Annapolis, Md. 21401. (The recommended parking and transportation option is to park at the Navy-Marine Corps Memorial Stadium and take the Annapolis Transit Trolley Shuttle from there—for all available parking options, see *http://www.downtownannapolis.org/_pages/transport/tr_parking.htm*.)

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 1306; fax: (717) 238–2436.

Opportunity To Appear and Comment

Interested parties are invited to attend the business meeting and encouraged to review the Commission's Public Meeting Rules of Conduct, which are posted on the Commission's Web site, *www.srbc.net.* As identified in the public hearing notice referenced below, written comments on the Regulatory Program projects that were the subject of the public hearing, and are listed for action at the business meeting, are subject to a comment deadline of November 25, 2013. The 2013 update of the Comprehensive Plan listed for Commission action was the subject of a public hearing conducted by the Commission on August 15, 2013, and as

identified in the notice for such hearing, which was published in 78 FR 38782, June 27, 2013, was subject to a comment deadline of August 26, 2013.Written comments pertaining to any other matters listed for action at the business meeting may be mailed to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pennsylvania 17110–1788, or submitted electronically through *http://www.srbc.net/pubinfo/publicparticipation.htm.* Any such comments mailed or electronically submitted must be received by the Commission on or before December 6, 2013, to be considered.

SUPPLEMENTARY INFORMATION: The business meeting will include actions or presentations on the following items: (1) Informational presentation of general interest on the lower Susquehanna River; (2) resolution concerning FY–2015 federal funding of the Susquehanna Flood Forecast and Warning System and National Streamflow Information Program; (3) 2013 update of the *Comprehensive Plan for the Water Resources of the Susquehanna River*; (4) sale of the former headquarters property at 1721 North Front Street, Harrisburg, Pa.; (5) ratification/approval of contracts/grants; and (6) Regulatory Program projects. Projects listed for Commission action are those that were the subject of a public hearing conducted by the Commission on November 13, 2013, and identified in the notice for such hearing, which was published in 78 FR 64260, October 28, 2013.

Authority: Public Law 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: November 7, 2013.

Andrew D. Dehoff,

Executive Director.

[FR Doc. 2013–27652 Filed 11–18–13; 8:45 am]

BILLING CODE 7040–01–P

TRADE REPRESENTATIVE

North American Free Trade Agreement; Invitation for Applications for Inclusion on the Chapter 19 Roster

AGENCY: Office of the United States Trade Representative.

ACTION: Invitation for applications.

SUMMARY: Chapter 19 of the North American Free Trade Agreement (''NAFTA'') provides for the establishment of a roster of individuals to serve on binational panels convened to review final determinations in antidumping or countervailing duty (''AD/CVD'') proceedings and amendments to AD/CVD statutes of a NAFTA Party. The United States annually renews its selections for the Chapter 19 roster. Applications are invited from eligible individuals wishing to be included on the roster for the period April 1, 2014, through March 31, 2015.

DATES: Applications should be received no later than December 3, 2013.

ADDRESSES: Applications should be submitted (i) electronically to *www.regulations.gov,* docket number USTR–2012–0037 or (ii) by fax, to Sandy McKinzy at (202) 395–3640.

FOR FURTHER INFORMATION CONTACT: Arthur Tsao, Assistant General Counsel, Office of the United States Trade Representative, (202) 395–6987.

SUPPLEMENTARY INFORMATION:

Binational Panel Reviews Under NAFTA Chapter 19

Article 1904 of the NAFTA provides that a party involved in an AD/CVD proceeding may obtain review by a binational panel of a final AD/CVD determination of one NAFTA Party with respect to the products of another NAFTA Party. Binational panels decide whether such AD/CVD determinations are in accordance with the domestic laws of the importing NAFTA Party, and must use the standard of review that would have been applied by a domestic court of the importing NAFTA Party. A panel may uphold the AD/CVD determination, or may remand it to the national administering authority for action not inconsistent with the panel's decision. Panel decisions may be reviewed in specific circumstances by a three-member extraordinary challenge committee, selected from a separate roster composed of fifteen current or former judges.

Article 1903 of the NAFTA provides that a NAFTA Party may refer an amendment to the AD/CVD statutes of another NAFTA Party to a binational panel for a declaratory opinion as to whether the amendment is inconsistent with the General Agreement on Tariffs and Trade (''GATT''), the GATT Antidumping or Subsidies Codes, successor agreements, or the object and purpose of the NAFTA with regard to the establishment of fair and predictable conditions for the liberalization of trade. If the panel finds that the amendment is inconsistent, the two NAFTA Parties shall consult and seek to achieve a mutually satisfactory solution.

Chapter 19 Roster and Composition of Binational Panels

Annex 1901.2 of the NAFTA provides for the maintenance of a roster of at least 75 individuals for service on Chapter 19 binational panels, with each NAFTA Party selecting at least 25 individuals. A separate five-person panel is formed for each review of a final AD/CVD determination or statutory amendment. To form a panel, the two NAFTA Parties involved each appoint two panelists, normally by drawing upon individuals from the roster. If the Parties cannot agree upon the fifth panelist, one of the Parties, decided by lot, selects the fifth panelist from the roster. The majority of individuals on each panel must consist of lawyers in good standing, and the chair of the panel must be a lawyer.

Upon each request for establishment of a panel, roster members from the two involved NAFTA Parties will be requested to complete a disclosure form, which will be used to identify possible conflicts of interest or appearances thereof. The disclosure form requests information regarding financial interests and affiliations, including information regarding the identity of clients of the roster member and, if applicable, clients of the roster member's firm.

Criteria for Eligibility for Inclusion on Chapter 19 Roster

Section 402 of the NAFTA Implementation Act (Pub. L. 103–182, as amended (19 U.S.C. 3432)) (''Section 402'') provides that selections by the United States of individuals for inclusion on the Chapter 19 roster are to be based on the eligibility criteria set out in Annex 1901.2 of the NAFTA, and without regard to political affiliation. Annex 1901.2 provides that Chapter 19 roster members must be citizens of a NAFTA Party, must be of good character and of high standing and repute, and are to be chosen strictly on the basis of their objectivity, reliability, sound judgment, and general familiarity with international trade law. Aside from judges, roster members may not be affiliated with any of the three NAFTA Parties. Section 402 also provides that, to the fullest extent practicable, judges and former judges who meet the eligibility requirements should be selected.

Adherence to the NAFTA Code of Conduct for Binational Panelists

The ''Code of Conduct for Dispute Settlement Procedures Under Chapters 19 and 20'' (*see https://www.nafta-sec-alena.org/Default.aspx?tabid=99&language=en-US*), which was established pursuant to Article 1909 of the NAFTA, provides that current and former Chapter 19 roster members ''shall avoid impropriety and the appearance of impropriety and shall observe high

standards of conduct so that the integrity and impartiality of the dispute settlement process is preserved.'' The Code of Conduct also provides that candidates to serve on chapter 19 panels, as well as those who are ultimately selected to serve as panelists, have an obligation to ''disclose any interest, relationship or matter that is likely to affect [their] impartiality or independence, or that might reasonably create an appearance of impropriety or an apprehension of bias.'' Annex 1901.2 of the NAFTA provides that roster members may engage in other business while serving as panelists, subject to the Code of Conduct and provided that such business does not interfere with the performance of the panelist's duties. In particular, Annex 1901.2 states that ''[w]hile acting as a panelist, a panelist may not appear as counsel before another panel.''

Procedures for Selection of Chapter 19 Roster Members

Section 402 establishes procedures for the selection by the Office of the United States Trade Representative (''USTR'') of the individuals chosen by the United States for inclusion on the Chapter 19 roster. The roster is renewed annually, and applies during the one-year period beginning April 1 of each calendar year.

Under Section 402, an interagency committee chaired by USTR prepares a preliminary list of candidates eligible for inclusion on the Chapter 19 Roster. After consultation with the Senate Committee on Finance and the House Committee on Ways and Means, USTR selects the final list of individuals chosen by the United States for inclusion on the Chapter 19 roster.

Remuneration

Roster members selected for service on a Chapter 19 binational panel will be remunerated at the rate of 800 Canadian dollars per day.

Applications

Eligible individuals who wish to be included on the Chapter 19 roster for the period April 1, 2014, through March 31, 2015, are invited to submit applications. Applications may be submitted either by fax to Sandy McKinzy at 202–395–3640 or electronically to *www.regulations.gov,* docket number USTR–2012–0037.

To submit an application via *www.regulations.gov,* enter docket number USTR–2012–0037 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and click on the link entitled ''Comment Now!.'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on the ''How to Use Regulations.gov'' on the bottom of the page.)

The *www.regulations.gov* site provides the option of providing comments by filling in a ''Type Comment'' field or by attaching a document. USTR prefers applications to be provided in an attached document. If a document is attached, please type ''Application for Inclusion on NAFTA Chapter 19 Roster'' in the ''Upload File'' field.

Applications must be typewritten, and should be headed ''Application for Inclusion on NAFTA Chapter 19 Roster.'' Applications should include the following information, and each section of the application should be numbered as indicated:

1. Name of the applicant.
2. Business address, telephone number, fax number, and email address.
3. Citizenship(s).
4. Current employment, including title, description of responsibility, and name and address of employer.
5. Relevant education and professional training.
6. Spanish language fluency, written and spoken.
7. Post-education employment history, including the dates and addresses of each prior position and a summary of responsibilities.
8. Relevant professional affiliations and certifications, including, if any, current bar memberships in good standing.
9. A list and copies of publications, testimony, and speeches, if any, concerning AD/CVD law. Judges or former judges should list relevant judicial decisions. Only one copy of publications, testimony, speeches, and decisions need be submitted.
10. Summary of any current and past employment by, or consulting or other work for, the Governments of the United States, Canada, or Mexico.
11. The names and nationalities of all foreign principals for whom the applicant is currently or has previously been registered pursuant to the Foreign Agents Registration Act, 22 U.S.C. 611 *et seq.,* and the dates of all registration periods.
12. List of proceedings brought under U.S., Canadian, or Mexican AD/CVD law regarding imports of U.S., Canadian, or Mexican products in which the applicant advised or represented (for example, as consultant or attorney) any U.S., Canadian, or Mexican party to such proceeding and, for each such proceeding listed, the name and country of incorporation of such party.
13. A short statement of qualifications and availability for service on Chapter 19 panels, including information relevant to the applicant's familiarity with international trade law and willingness and ability to make time commitments necessary for service on panels.
14. On a separate page, the names, addresses, telephone and fax numbers of three individuals willing to provide information concerning the applicant's qualifications for service, including the applicant's character, reputation, reliability, judgment, and familiarity with international trade law.

Current Roster Members and Prior Applicants

Current members of the Chapter 19 roster who remain interested in inclusion on the Chapter 19 roster only need to indicate that they are reapplying and submit updates (if any) to their applications on file. Current members do not need to resubmit their applications. Individuals who have previously applied but have not been selected must submit new applications to reapply. If an applicant, including a current or former roster member, has previously submitted materials referred to in item 9, such materials need not be resubmitted.

Public Disclosure

Applications normally will not be subject to public disclosure and will not be posted publicly on www.regulations.gov. They may be referred to other federal agencies and Congressional Committees in the course of determining eligibility for the roster, and shared with foreign governments and the NAFTA Secretariat in the course of panel selection.

False Statements

Pursuant to section 402(c)(5) of the NAFTA Implementation Act, false statements by applicants regarding their personal or professional qualifications, or financial or other relevant interests that bear on the applicants' suitability for placement on the Chapter 19 roster or for appointment to binational panels, are subject to criminal sanctions under 18 U.S.C. 1001.

Privacy Act

The following statements are made in accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a). The authority for requesting information to be furnished is section 402 of the

NAFTA Implementation Act. Provision of the information requested above is voluntary; however, failure to provide the information will preclude your consideration as a candidate for the NAFTA Chapter 19 roster. This information is maintained in a system of records entitled ''Dispute Settlement Panelists Roster.'' Notice regarding this system of records was published in the **Federal Register** on November 30, 2001. The information provided is needed, and will be used by USTR, other federal government trade policy officials concerned with NAFTA dispute settlement, and officials of the other NAFTA Parties to select well-qualified individuals for inclusion on the Chapter 19 roster and for service on Chapter 19 binational panels.

Juan Millan,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 2013–27552 Filed 11–18–13; 8:45 am]

BILLING CODE 3290–F4–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2013–0050]

Designation of the Primary Freight Network

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; Request for Comments.

SUMMARY: This notice publishes the draft initial designation of the highway Primary Freight Network (PFN), which is established by the Secretary of Transportation as required by 23 U.S.C. 167(d), and provides information about designation of Critical Rural Freight Corridors (CRFC), which are designated by the States, and establishment of the National Freight Network (NFN), which combines the two, along with the portions of the Interstate System not designated as part of the highway PFN. This notice also solicits comments on the draft initial designation of the highway PFN and other critical aspects of the NFN. A notice published in the **Federal Register** on February 6, 2013 (78 FR 8686), introduced the process for designation of the highway PFN, NFN, and CRFCs.

DATES: Comments must be received on or before December 19, 2013.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.
- *Instructions:* You must include the agency name and docket number at the beginning of your comments. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: For questions about this program, contact Ed Strocko, FHWA Office of Freight Management and Operations, (202) 366–2997, or by email at *Ed.Strocko@dot.gov.* For legal questions, please contact Michael Harkins, FHWA Office of the Chief Counsel, (202) 366–4928, or by email at *Michael.Harkins@dot.gov.* Business hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may retrieve a copy of the notice through the Federal eRulemaking portal at: *http://www.regulations.gov.* The Web site is available 24 hours each day, every day of the year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site. An electronic copy of this document may also be downloaded from Office of the Federal Register's home page at: *http://www.archives.gov/federal_register* and the Government Printing Office's Web page at: *http://www.gpoaccess.gov.*

Background

Section 167(c) of title 23 United States Code (U.S.C.), created by Section 1115 of the Moving Ahead for Progress in the 21st Century Act (MAP–21), directs the Secretary to establish a NFN to assist States in strategically directing resources toward improved system performance for efficient movement of freight on the highway portion of the Nation's freight transportation system, including the National Highway System (NHS), freight intermodal connectors, and aerotropolis transportation systems. The U.S. Department of Transportation (DOT) approaches this with a full understanding that with regard to surface freight transportation, significant tonnage moves over rail, water, and pipeline networks and that this highway PFN designation does not fully reflect those aspects of the U.S. freight system.

Under 23 U.S.C. 167(c), the NFN will consist of three components: the highway PFN, the portions of the Interstate System not designated as part of the highway PFN, and CRFCs, which are designated by the States.

Congress limited the highway PFN to not more than 27,000 centerline miles of existing roadways that are most critical to the movement of freight. Congress allowed an additional 3,000 centerline miles (that may include existing or planned roads) critical to the future efficient movement of goods on the highway PFN.

Congress instructed DOT to base the highway PFN on an inventory of national freight volume conducted by the FHWA Administrator, in consultation with stakeholders, including system users, transport providers, and States. Congress defined eight factors to consider in designating the highway PFN.

The eight factors are:

1. Origins and destinations of freight movement in the United States;
2. Total freight tonnage and value of freight moved by highways;
3. Percentage of annual average daily truck traffic in the annual average daily traffic on principal arterials;
4. Annual average daily truck traffic on principal arterials;
5. Land and maritime ports of entry;
6. Access to energy exploration, development, installation, or production areas;
7. Population centers; and
8. Network connectivity.

Purpose of the Notice

The purpose of this notice is to publish the draft initial designation of the highway PFN as required by 23 U.S.C. 167(d), provide information regarding State designation of CRFCs and the establishment of the complete NFN, and to solicit comments on aspects of the NFN. The five areas for comment are: (1) Specific route deletions, additions, or modifications to the draft initial designation of the highway PFN contained in this notice; (2) the methodology for achieving a 27,000-mile final designation; (3) how the NFN and its components could be used by freight stakeholders in the future; (4) how the NFN may fit into a multimodal National Freight System; and (5) suggestions for an urban-area route designation process.

Limitations and Considerations for Primary Freight Network Development

The process of developing a highway PFN that reflects the criteria for consideration identified by Congress and which results in a network limited to only 27,000 centerline miles of roads is highly complex. After careful consideration, DOT determined that the multitude of factors combined with the mileage cap does not yield a network that is representative of the most critical highway elements of national freight system that exists in the United States. For example, the effort to link qualifying segments to achieve a contiguous network, and to ensure sufficient connections to Mexico and Canada, requires the additional designation of thousands of miles. This reduces the number of miles left for qualifying segments and necessitates raising the qualifying threshold for level of volume, value, tonnage or other factors. In addition, DOT discovered the following challenges in designating the network required by MAP–21.

Application of the Primary Freight Network

The lack of a stated application for the highway PFN and NFN introduces uncertainty into the designation process. Without a better understanding of the goals for the highway PFN, it was challenging to weight the factors for designation relative to one another and to gauge whether the resulting network would meet future public planning and investment needs. Each individual criterion yields different network coverage when compared to the simulations for the other factors. For example, a map that shows the top roads by percentage of truck traffic and a map that shows the top roads by average annual daily truck traffic yields very different results. The aggregation of all these factors results in a map that is difficult to limit to 27,000 miles without some significant prioritization of the many factors and their cut-off points. With no clear optimal solution, additional input from stakeholders is critical to prioritizing the miles to achieve a 27,000-mile designation.

Centerline Versus Corridor Approach

Limiting the highway PFN to 27,000 centerline miles, as required by 23 U.S.C. 167(d), excludes many freight-significant Interstate and NHS routes throughout the country. In 2008, DOT looked at the question of critical U.S. freight routes as part of the Freight Story 2008 [1] report and developed a multimodal, corridor-based map. This approach allowed for the inclusion of more than one vital route in a congested region. By contrast, the statutory language in MAP–21 clearly directs DOT to use centerline roadway miles for the development of the NFN, which does not necessarily allow for the designation of multiple routes in a region that comprise an active and fluid highway freight system. The DOT suggests that corridor-level analysis and investment has the potential for widespread freight benefits, and can improve the performance and efficiency of the highway PFN.

Limitations of National Data

The data utilized for the development of the draft initial highway PFN comprises the best information available on freight behavior at a national level. Nevertheless, national data is not sufficient to understand fully the behavior of freight in smaller subsets of the Nation, to include goods movement in urban areas. Urban areas of 200,000 and above include a freight-generating population and in most cases, are the site of significant freight facilities where highway freight intersects with other modes—at rail yards, ports, and major airports. These ''first and last mile'' connections, which are also represented in rural areas, do not always show up well in data sets.

Lack of Consideration for Critical Urban Freight Routes in the National Freight Network

The DOT recognizes that many highway freight bottlenecks and chokepoints are located in urban areas and at first and last mile connectors, making urban areas critical to the efficiency of domestic and international supply chains. Although Federal law provides a mechanism to enable connectivity to critical freight ''last mile'' origins and destinations in rural areas through CRFC designation, which are designated by the States, the NFN language in 23 U.S.C. 167(d) lacks a parallel process for designating critical urban freight routes to address the need for connectivity to urban areas. Urban area mileage may only be included in the NFN if it qualifies as a highway PFN route or if it is an Interstate System route. Given the lack of precision of national data at the urban level, DOT believes there is merit in establishing a process for local, regional, or State government entities to designate critical urban freight routes that are important for freight movement to, from, and through an urban area, but which were not apparent through analysis of the national-level data.

Using national data, DOT included in the highway PFN designation connectivity to urban areas over 200,000 in population with major freight transfer facilities. However, DOT recognizes that cities, Metropolitan Planning Organizations, and State Departments of Transportation (State DOTs) are best positioned to understand the complexities of freight movement in individual urban areas, including current freight movement patterns, and plans or projections for shifts in freight movement within the urban areas. The DOT strongly urges these agencies to act in partnership to reach out to freight facility owners and operators to: (1) Review and provide comments to DOT on the inclusion of these and other facilities in the highway PFN; (2) consider inclusion of these facilities in State and Metropolitan Freight Plans; (3) provide comments and suggestions to DOT for a metropolitan area process similar to the CRFC designation for critical urban freight routes; (4) undertake a metropolitan area process similar to the CRFC designation for critical urban freight routes; and (5) jointly identify for DOT more precise data that could be used in the identification of critical urban freight routes.

Process for Designating the Draft Initial Primary Freight Network

In undertaking the highway PFN analysis, DOT developed multiple scenarios to identify a network that represents the most critical highway portions of the United States freight system. The DOT welcomes comment on the following methodology.

Highway Primary Freight Network Data Sources

The draft initial highway PFN was informed by measurable and objective national data. In performing the analysis that led to development of the draft initial highway PFN, FHWA considered the following criteria and data sources, which are further described at the following Web locations:

[1] Publication: FHWA–HOP–08–051, available at *http://www.ops.fhwa.dot.gov/freight/freight_analysis/freight_story/index.htm.*

Factor	Data source
Origins/destinations of freight movements	FHWA Freight Analysis Framework (FAF) 3.4 *http://www.ops.fhwa.dot.gov/freight/freight_analysis/faf/.*
Freight tonnage and value by highways	FAF 3.4 *http://www.ops.fhwa.dot.gov/freight/freight_analysis/faf/.*
Percentage of Average Annual Daily Truck Traffic (AADTT) on principal arterials.	FHWA Highway Performance Monitoring System (HPMS) 2011 AADTT *http://www.fhwa.dot.gov/policyinformation/hpms.cfm.*
AADTT on principal arterials	HPMS 2011 AADTT *http://www.fhwa.dot.gov/policyinformation/hpms.cfm.*
Land & maritime ports of entry	U.S. Department of Transportation Maritime Administration (MARAD) Containers by U.S. Customs Ports *http://www.marad.dot.gov/documents/Container_by_US_Customs_Ports.xls.*
	DOT Bureau of Transportation Statistics (BTS) Transborder data *http://www.bts.gov/programs/international/transborder/TBDR_QuickSearch.html.*
	U.S. Army Corps, Navigation Data Center, special request, October 2012 via BTS.
Airports	Federal Aviation Administration (FAA) CT 2011 Cargo Airports by Landed Weight *http://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger/media/cy11_cargo.xlsx.*
	FAA Aeronautical Information Services—Airport Database in the National Transportation Atlas Database (NTAD) 2013 *www.bts.gov/programs/geographic_information_services/.*
Access to energy exploration, development, installation or production areas.	United States Energy Information Administration Data *http://www.eia.gov/pub/oil_gas/natural_gas/analysis_publications/maps/maps.htm#geodata.*
	Pennwell Mapsearch data via Pipeline and Hazardous Materials Safety Administration (PHMSA) *http://www.mapsearch.com.*
	Pennwell Mapsearch data via PHMSA *http://www.mapsearch.com.*
	Pennwell Mapsearch data via PHMSA *http://www.mapsearch.com.*
Population centers	2010 Census *http://www.census.gov/cgi-bin/geo/shapefiles2012/main.*
Network connectivity	FAF 3.4 *http://www.ops.fhwa.dot.gov/freight/freight_analysis/faf/.*
	FHWA National Highway Planning Network (NHPN) Version 11.09 *http://www.fhwa.dot.gov/planning/processes/tools/nhpn/.*
National Highway System Freight Intermodal Connectors	FHWA National Highway System Intermodal Connectors *http://www.fhwa.dot.gov/planning/national_highway_system/intermodal_connectors/.*
Railroads	Federal Railroad Administration analysis of Rail Inc Centralized Station Master data *https://www.railinc.com/rportal/29.*
Origin and destination pairs	FAF 3.4 *http://www.ops.fhwa.dot.gov/freight/freight_analysis/faf/.*

Draft Initial Primary Freight Network Methodology

The methodology employed by DOT in developing a draft initial highway PFN included the following steps:

(1) The Freight Analysis Framework (FAF) and Highway Performance Monitoring System (HPMS) data sets were engaged to yield the top 20,000 miles of road segments that qualify in two of the following four factors: Value of freight moved by highway, tonnage of freight moved by highway, annual average daily truck traffic (AADTT) on principal arterials, and percentage of AADTT in the annual average daily traffic on principal arterials.

(2) Segments identified in Step #1 and gaps between segments were analyzed for network connectivity purposes. A network was created by connecting segments if the gap between segments was equal to or less than 440 miles (440 miles being the distance a truck could travel in 1 day). A segment was eliminated if it was less than one-tenth of the length of the nearest qualifying segment on the highway PFN.

(3) Land ports of entry with truck traffic higher than 75,000 trucks per year were identified. These land ports of entry were then connected to the network created in Steps #1 and #2.

(4) The NHS Freight Intermodal Connectors within urban areas with a population of 200,000 or more were identified.[2] The NHS Freight Intermodal Connectors included any connectors that had been categorized as connecting to a freight rail terminal, port, or pipeline. In addition, these NHS Freight Intermodal Connectors included routes to the top 50 airports by landed weight of all cargo operations. These 50 airports represent 89 percent of the landed weight of all cargo operations in the United States. The NHS Freight Intermodal Connectors were connected back to the network created in Steps #1 and #2 along the route with the highest AADTT using HPMS.

(5) Road segments within urban areas with a population of 200,000 or more that have an AADTT of 8,500 trucks/day or more were identified.[3] Segments were connected to the network established in Steps #1 and #2 if they were equal to or greater than one-tenth of the length of the nearest qualifying segment on the highway PFN. Those segments not meeting this rule were removed as they were more likely to represent discrete local truck movement activity unrelated to the national system.

(6) The network was analyzed to determine the relationship to population centers, origins and destinations, maritime ports, airports, and rail yards. Minor network connectivity adjustments were incorporated into the network.

(7) The road systems in Alaska, Hawaii, and Puerto Rico, were analyzed using HPMS data. These routes would not otherwise qualify under a connected network model but play a critical role in the movement of products from the agriculture and energy sectors, as well as international import/export functions for their States and urban areas. Roads connecting key ports to population centers were incorporated into the draft initial highway PFN.

(8) The network was analyzed to determine the relationship to energy exploration, development, installation, or production areas. Since the data points for the energy sector are scattered around the United States, often in rural areas, and because some of the related freight may move by barge or other maritime vessel, rail, or even pipeline, DOT did not presume a truck freight correlation, electing instead to leave this to the expert consideration of States

[2] Due to the timing of the highway PFN analysis DOT chose to use the Census defined urban areas (UZAs) rather than the adjusted UZAs that may be modified by states until June 2014.

[3] Ibid.

through the designation of the CRFCs or comments to the draft initial designation of the highway PFN.

Outcome

This methodology resulted in a comprehensive map of 41,518 centerline miles, including 37,436 centerline miles of Interstate and 4,082 centerline miles of non-Interstate roads.[4] Since the statute limits the highway PFN to 27,000 centerline miles, the DOT then identified those segments with the highest AADTT. These road segments represented on the draft highway PFN map comprise 26,966 miles of centerline roads that reflect consideration of the criteria offered by Congress. This draft highway PFN results in an unconnected network with major gaps in the system, including components of the global and domestic supply chains. The DOT acknowledges that this 27,000-mile highway PFN does not meet the statutory criterion for network connectivity and would appreciate feedback on the importance of designating a connected highway PFN compared to achieving the connectivity with the addition of the Interstate routes in the designation of the NFN. Furthermore, we offer the comprehensive 41,518-mile map to elicit suggestions as to how to proceed to a final designation of 27,000 miles.

The DOT notes that goods movement occurs in a very fluid environment and during the drafting of MAP–21, Congress did not have access to the latest data on freight movement. As a point of comparison, the DOT took the major freight corridors map that was originally developed for Freight Story 2008 and ran an analysis in the spring of 2013 to see how that map would look using current data. This effort was done internally as part of the work to develop the highway PFN. The Freight Story 2008 map contained 27,500 miles of roads (26,000 miles based on truck data and parallel intermodal rail lines and 1,500 miles representing goods movement on parallel major bulk rail lines or waterways). Using the same methodology with 2011 HPMS and rail data, the mileage based solely on the truck and intermodal rail data grew to over 31,000 miles of roads, not including consideration of growth in other freight modes on parallel major bulk rail lines or waterways.

Additional Miles on the Primary Freight Network

The Secretary of Transportation, under Section 167 of title 23, U.S.C., may increase the highway PFN by up to 3,000 centerline miles above the 27,000-mile limit, to accommodate existing or planned roads critical to future efficient movement of goods on the highway PFN.

In the February 6, 2013, notice describing the planned process for the designation of the NFN, DOT outlined a process for determining facilities to be included in these additional 3,000 miles. The DOT indicated that in determining whether a route is critical to the future efficient movement of goods on the highway PFN, the Secretary will consider the factors identified for the designation of the highway PFN as well as one or more additional factors.

In the draft initial designation of the highway PFN, DOT focused on freight routes critical to the current movement of freight. The Department is aware of emerging freight routes that will be critical to the future efficient movement of goods and believes there is value in expanding the highway PFN in the future to reflect these routes as the Nation grows.

Draft Initial Primary Freight Network Designation

The DOT has posted the details of the draft initial highway PFN, including the 26,966-mile draft highway PFN map, the 41,518-mile comprehensive map, State maps and lists of designated routes, tables of mileage by State, and information regarding intermodal connectors and border crossings at: *http://ops.fhwa.dot.gov/freight/infrastructure/nfn/index.htm.*

As previously noted, the statute places a cap on the designation of the highway PFN at 27,000 centerline miles. The tables and maps on the above Web site show a 41,518 mile connected network that DOT would prefer to designate if it were not constrained to 27,000 miles by the statute. The 27,000-mile subset shown in the map is only one option of many that DOT could choose to designate as the highway PFN. The DOT seeks comments on the routes identified in the draft initial highway PFN of 26,966 miles, including the specific identification of roadways that freight partners and stakeholders believe should be included or removed. In submitting comments relating to the deletion, addition or modification of roadways included in this draft highway PFN, commenters should provide information that addresses how the roadway relates to the factors identified above and in 23 U.S.C. 167(d).

Further, DOT welcomes comments on the proposed approach and methodology to achieve a 27,000 mile network, considering such questions as: Connectivity; the treatment of urban area mileage and the concept of a critical urban freight corridor process; inclusion of border crossings of a certain level of truck volume; corridor-level designation; the adequacy of the network to identify bottlenecks and other freight infrastructure or operational needs, and more.

Designation of Rural Freight Corridors

The designation of CRFCs by the States is described in 23 U.S.C. 167(e), and provides that a State may designate a road within the borders of the State as a CRFC if the road is a rural principal arterial roadway and has at least 25 percent of the AADTT of the road measured in passenger vehicle equivalent units from trucks (FHWA vehicle class 8 to 13); provides access to energy exploration, development, installation or production areas; or connects the highway PFN, a roadway described above, or the Interstate System to facilities that handle more than 50,000 20-foot equivalent units per year, or 500,000 tons per year of bulk commodities. The designation of CRFCs will be performed by State DOTs and provided to DOT after designation of the highway PFN is complete. Further guidance and technical assistance for identifying these corridors will be provided in the coming months. The FHWA will make an initial request of the States to identify CRFCs and will maintain route information for the rural freight corridors thereafter. There is no equivalent provision in the law for States to designate routes in urban areas.

National Freight Network Role

Freight in America travels over an extensive network of highways, railroads, waterways, pipelines, and airways: 985,000 miles of Federal-aid highways; 141,000 miles of railroads; 11,000 miles of inland waterways; and 1.6 million miles of pipelines. There are over 19,000 airports in the United States, with approximately 540 serving commercial operations, and over 5,000 coastal, Great Lakes, and inland waterway facilities moving cargo.

Section 167(c) of title 23, U.S.C., directs the Secretary to establish a NFN to assist States in strategically directing resources toward improved system performance for efficient movement of freight on the highway portion of the

[4] Commenters should note the 2011 HPMS database and the current FAF database differ in the delineation and exact geo-location of the NHS system. This may result in 1%–2% plus/minus variation on the total mileage because the mileage is based on the geospatial network and actual mileage reported by States may vary due to vertical and horizontal curves that are not always accurate in GIS databases. The DOT will look to integrate the 2011 HPMS database with the FAF database to reduce variation in future iterations.

Nation's freight transportation system. Nevertheless, while specific commodities are likely to be moved on a particular mode or series of modes, a complex multi-modal system is required to meet fully the growing volume of bulk and high-velocity, high-value goods in the United States.

The DOT seeks to develop a NFN to provide connectivity between and throughout the three elements that comprise the NFN (highway PFN, Remainder of the Interstate System, and CRFC). The DOT recognizes that as a highway-only network, the NFN is an incomplete representation of the system that is required to efficiently and effectively move freight in the United States. Consistent with the national freight policy in MAP–21, DOT's goal is to designate a highway PFN that will improve system performance, maximize freight efficiency, and be effectively integrated with the entire freight transportation system, including non-highway modes of freight transport.

The DOT seeks comments on how the NFN fits into a larger multimodal national freight system and how a multi-modal national freight system may be defined.

Use of the National Freight Network in the Future

In creating the NFN, Congress stated that a NFN shall be established to assist States in strategically directing resources toward improved system performance for efficient movement of freight on the highway portion of the Nation's freight transportation system. Congress specified that the highway PFN shall be comprised of not more than 27,000 miles of existing roadways that are most critical to the movement of freight.

The DOT is seeking comments as to how the designation of the NFN and highway PFN could be used by and benefit public and freight stakeholders. We also welcome comments regarding potential undesirable applications of the NFN and highway PFN. The DOT encourages widespread input to this proposed draft to provide a thorough examination of the diverse issues presented in this notice.

National Freight Network Designation

The following is the approximate schedule for designation of the NFN:

1. Initial designation of highway PFN—Fall 2013
2. Compilation of State-designated CRFC routes—Late 2013—Early 2014
3. Release of the initial designation of the full NFN (including highway PFN, rest of the Interstate System, CRFCs)—2014

Authority: 23 U.S.C. 167; Section 1115 of Pub. L. 112–141.

Issued on: November 8, 2013.

Victor M. Mendez,

FHWA Administrator.

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BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Preparation of an Environmental Impact Statement for High Capacity Transit Improvements for the Indianapolis Northeast Corridor Now Known as (nka) Green Rapid Transit Line in the Indiana Counties of Marion and Hamilton

AGENCY: Federal Transit Administration, U.S. Department of Transportation.

ACTION: Supplemental notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA), the Central Indiana Regional Transportation Authority (CIRTA), the Indianapolis Metropolitan Planning Organization (Indianapolis MPO) and Indianapolis Public Transportation Corporation (IndyGo) intend to prepare an Environmental Impact Statement (EIS) for the Northeast Corridor Project, nka Green Rapid Transit Line (Green Line) Project relating to proposed fixed guideway transit improvements in the Indiana counties of Marion and Hamilton. The study area is an approximately 23-mile long travel corridor extending from downtown Indianapolis to downtown Noblesville and includes the community of Fishers. Options to be considered include No-Build, Bus Rapid Transit (BRT) and Diesel Light Rail Transit (LRT). The EIS process provides opportunities for the public to comment on the scope of the EIS, including the project's purpose and need, the alternatives to be considered, and the impacts to be evaluated. The southern terminus of all alternatives would be adjacent to the transit center in downtown Indianapolis.

An original Notice of Intent for the proposed Green Line transit improvement was published on March 9, 2010 and was followed by initial project scoping, public involvement and agency coordination. Project activities were suspended following the initial scoping activities to address funding issues and conduct additional planning related to development of the regional transit vision plan (referred to as ''Indy Connect''). As funding issues are being addressed and the regional transit plan has been completed, scoping activities for the Green Line have resumed.

The purpose of this notice is to alert interested parties regarding the intent to prepare the EIS, to provide information on the nature of the proposed project and possible alternatives, to invite public participation in the EIS process, including comments on the scope of the EIS as proposed in this notice, to announce that a public scoping meeting will be conducted, and to identify participating agency contacts. This input will be used to assist decision makers in determining a locally preferred alternative (LPA) and preparing a Draft Environmental Impact Statement (DEIS) for the Green Line. Upon selection of an LPA, the project sponsors will request permission from FTA to enter into Project Development per requirements of 49 USC 5309. The Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) will be issued after the project has entered Project Development.

Dates, Times, and Locations: Comment Due Date: Written comments on the purpose and need for the proposed improvements, and the scope of alternatives and impacts to be considered should be sent to the Indianapolis MPO by December 19, 2013.

A public scoping meeting to accept comments on the scope of the study will be held on December 5, 2013 from 6:00 p.m. until 8:00 p.m. in the Julia Carson Government Center located at 300 East Fall Creek Parkway North Drive, Indianapolis, Indiana 46205. The public scoping meeting will be informal and in an open house format. Interested persons may ask questions about the proposal and the FTA's environmental review process. The project's purpose and need and the initial set of alternatives proposed for study will be presented at the meetings. CIRTA, the Indianapolis MPO, IndyGo and project team members will be available to answer questions and receive comments. A writing station will be available to those who wish to submit written comments at the public scoping meeting. Project team members will be available to listen and make notes of residents' comments.

The public scoping meeting location complies with the Americans with Disabilities Act. Persons needing special accommodations should contact Jeremy Moore, Project Manager, at (317) 327–5495 or *Jeremy.Moore@indy.gov* at least 48 hours prior to the meeting.

An interagency scoping meeting for federal, state, regional and local resource and regulatory agencies will be

held on December 5, 2013 from 2:30 p.m. until 4:00 p.m. in the HNTB Corporation offices located at 111 Monument Circle, Suite 1200, Indianapolis, Indiana 46204. The meeting will also be available via webcast. All appropriate agencies that may have an interest in this project, or have a potential interest in becoming a participating agency, will be notified of the meeting through separate direct correspondence.

Submitting Comments on the Scope of the Study: Scoping materials will be available at the meetings and through the project's Web site at *http://www.indyconnect.org.* FTA, CIRTA, the Indianapolis MPO and IndyGo encourage broad participation in the EIS process. All interested agencies, organizations, communities, and members of the public are invited to participate in the scoping process by reviewing and commenting on the scope of the EIS.

ADDRESSES: Written comments on the scope of the EIS may be submitted to the attention of Jeremy Moore, Project Manager, Indianapolis Metropolitan Planning Organization, City County Building, Suite 1922, 200 E. Washington Street, Indianapolis, Indiana 46204, Phone: (317) 327–5495, Fax: (317) 327–5950, Email: *Jeremy.Moore@indy.gov.*

Additional Information: Contact Reginald Arkell, Federal Transit Administration, Region 5, 200 W. Adams Street, Suite 320, Chicago, Illinois 60606, Phone: 312–886–3704, Email: *reginald.arkell@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Scoping

The purpose of the scoping process is to provide an opportunity for the public and agencies to comment on and provide early input to the Green Line DEIS process. On March 9, 2010, FTA published a Notice of Intent (NOI) in the **Federal Register** to initiate the Green Line Environmental Impact Statement process. As part of that effort, a Scoping Document was mailed to potential participating agencies in March 2010 and a resource agency scoping meeting was held in April 2010. The original public scoping meetings for the project DEIS were held on March 17, 2010 at the Julia Carson Government Center in Indianapolis, and on March 24, 2010 at the Hamilton County Government Center in Noblesville. Comments were received from various agencies and incorporated into an Environmental Scoping Report which was submitted to participating agencies in November 2010.

Project activities were suspended following the initial scoping activities in 2010 for two reasons. First, the DEIS cannot be approved unless the project is included in the fiscally constrained Long Range Transportation Plan. The fiscal constraint requirement cannot be met unless there is a reasonable expectation of an additional transit funding source. The City of Indianapolis and other local governments began advocating for legislation to allow the establishment of a dedicated local transit funding source in 2010. The Indiana House of Representatives passed the necessary enabling legislation for a local transit referendum in 2013. Transit funding proposals are still under review by the Indiana Senate. Given the significant progress since 2010, it is reasonable to resume the Green Line DEIS development activities.

The second significant reason to temporarily suspend activities was the development of the regional transit vision plan (Indy Connect). During the period 2010 to 2013, a sophisticated financial model was developed to support regional plan development, a balanced regional transit plan was defined based on realistic funding expectations, and an unprecedented public involvement program was defined and executed to promote public understanding of the plan. The context and timing of the Green Line Project have become better defined, and alternatives have been refined to better meet the needs of the corridor and the overall system.

Due to the time that has lapsed, and recognizing the changed context and alternatives definition, the project team is re-initiating project scoping with resource agencies, including those that declined to participate in 2010. Each agency and the public are again being invited to participate in the project development process for the Green Line Project. This will provide the opportunity for meaningful participation as analyses are being updated to reflect changed conditions.

The FTA, the Indianapolis MPO and CIRTA invite all interested individuals, organizations, businesses, and federal, state, and local agencies to participate in establishing the purpose and need, project alternatives, and methodologies of the environmental analysis approach for the EIS, as well as participate in an active public involvement program. During the scoping process, the public is invited to comment on (a) the purpose and need; (b) the alternatives to be addressed; (c) the transit technologies to be evaluated; (d) the alignments and station locations to be considered; (e) the environmental, social, and economic impacts to be analyzed; and (f) the evaluation approach to be used to select the LPA.

NEPA ''scoping'' (40 CFR 1501.7) is intended to identify the significant issues associated with alternatives that will be examined in detail and to limit consideration of issues that are not truly significant. It is in the NEPA scoping process that potentially significant environmental impacts should be identified. Environmental benefits will also be highlighted.

Once the scope of the environmental study is defined, an annotated outline of the draft EIS will be prepared and shared with interested agencies and the public. The outline will serve to: (1) Document the results of the scoping process; (2) contribute to the transparency of the process; and (3) provide a clear roadmap for concise development of the environmental document.

Public outreach activities will continue with interested residents, stakeholders and groups throughout the EIS process. The Web site, *http://www.indyconnect.org,* will be updated periodically to reflect the status of the project. Additional opportunities for public participation will be announced through mailings, notices, social media, and press releases.

II. Description of Study Area and Project Need

The Green Line Project Study Area includes the main travel corridors between downtown Indianapolis and the rapidly growing areas of Hamilton County, Indiana, including the communities of Fishers and Noblesville, as well as the intervening high-density residential and commercial areas of northeastern and central Marion County. This is referred to as the northeast corridor.

As currently identified, the purpose of the Green Line Project is to improve mobility within the northeast corridor of Central Indiana through the development of improved transit options. Consistent with the purpose of the project, the EIS will address the need to: improve mobility, accessibility and travel options within the northeast corridor; support sustainable, long-term economic growth and livability; and support local transportation plans and policies.

III. Alternatives

The proposed alternatives to be evaluated in the EIS will include the following:

• No-Build Alternative: The No-Build Alternative is defined as the existing transportation system and any committed transportation

improvements. Committed transportation improvements include projects in the Indianapolis Transportation Improvement Program (TIP), which includes added travel lanes and interchange improvements on I–69 and I–465. The No-Build alternative includes no changes to IndyGo bus service or other transit services. Consideration of the No-Build Alternative is required as part of the NEPA evaluation process.

• Bus Rapid Transit (BRT) Alternatives: A two-lane dedicated busway with on-line stations and other related capital improvements would be constructed in the Hoosier Heritage Port Authority (HHPA) Railroad right of way between Noblesville and 10th Street in Indianapolis. Between 10th Street and the downtown transit center, BRT vehicles would operate on-street in mixed traffic or dedicated lanes via one of three basic alternative routes. The on-street routes utilize Fort Wayne or Massachusetts Avenue, and Pennsylvania and/or Delaware Street. Variations to these basic alignments would be considered near the downtown transit center for BRT vehicles operating in mixed traffic. All BRT alternatives would include enhanced stations with sheltered waiting areas, real-time next bus arrival information and traffic signal preemption technology. The vehicle would be a low-floor diesel-electric hybrid bus with enhanced on-board passenger amenities.

• Diesel Light Rail Transit (LRT) Alternative: The existing track structure of the HHPA rail line would be completely reconstructed between Noblesville and 10th Street in Indianapolis, and new track would be constructed in-street between 10th Street and the downtown transit center. At most locations, the rail guideway in downtown Indianapolis would be in a lane dedicated for transit use. As with BRT, the LRT vehicles would utilize Fort Wayne or Massachusetts Avenue, and Pennsylvania and/or Delaware Street to access the downtown transit center. LRT alternatives would include enhanced stations with sheltered waiting areas, real-time arrival information, low-floor vehicles with enhanced on-board passenger amenities, and fully gated quiet crossings at road crossings outside downtown Indianapolis. Service would be provided by diesel powered light rail vehicles also known as diesel multiple units or DMUs.

• Downtown Indianapolis Options: Two of the downtown alternative alignments utilize Fort Wayne Avenue after leaving the HHPA Corridor and turning to the west onto 10th Street. The first alternative follows Fort Wayne Avenue to Pennsylvania Street, where two-way transit traffic is maintained to Washington Street. At Washington Street, the line turns onto Virginia Avenue and ends just west of the downtown transit center. The second Fort Wayne alternative is the same until it reaches Delaware Street, where it splits and uses Pennsylvania and Delaware Streets for one-way operation to and from the downtown transit center.

A third downtown alternative alignment is on Massachusetts Avenue south of 10th Street. In this option, the downtown transit center is accessed by means of two-way transit operations on Delaware Street.

After leaving the HHPA Corridor on 10th Street, the LRT would use College Avenue to access Massachusetts Avenue. LRT would operate in dedicated lanes over the full length of the route. Center lanes on Massachusetts Avenue would require existing 90-degree parking to be converted to parallel parking. Curb lanes would be used on each side of Delaware Street. LRT would require a section of ''tail track'' south of the downtown transit center to reverse direction.

If LRT is implemented on the Fort Wayne alignments, it is assumed that exclusive lanes would be provided throughout the route with the exception of a short segment of 10th Street where the street is narrow and eastbound traffic volumes are low. The transit lanes would be provided within existing curb lines and stations would be mostly in existing right of way. Implementing LRT would result in loss of travel and/or parking lanes throughout the downtown Indianapolis route.

BRT options could operate in the same exclusive transit lanes that would be used by LRT, with similar impacts to parking and travel lanes, or BRT could operate in general purpose lanes with mixed traffic, taking advantage of the effective traffic signal coordination of the Pennsylvania/Delaware one-way pair. The path for mixed traffic operations could vary in the vicinity of the downtown transit center using Washington Street and Virginia Avenue to turn around. Additionally, mixed traffic BRT could access to Massachusetts Avenue via Carrolton Avenue. This option does not exist for LRT vehicles since they are unable to make the 90-degree turns necessary to use cross streets to access Pennsylvania Street.

Based on public and agency input received during scoping, variations of the above alternatives would be considered for the Green Line Project.

IV. Potential Impacts for Analysis

The scoping process will identify the environmental impact areas most relevant to the project that merit further exploration in the EIS. The potential impact areas include: land use, zoning, potential displacements, parkland, economic development, community disruptions, environmental justice, aesthetics, air quality, noise and vibration, wildlife, vegetation, threatened and endangered species, farmland, water quality, wetlands, waterways, floodplains, hazardous materials, and cultural, historic and archaeological resources.

The EIS will take into account both positive and negative impacts, direct and indirect impacts, short-term and long-term impacts, and site specific and corridor wide impacts. Evaluation criteria will be consistent with all Federal, state, and local criteria, regulations and policies. The EIS will identify measures to avoid or mitigate significant adverse environmental impacts.

To ensure that all significant issues related to this proposed action are identified and addressed, scoping comments and suggestions are invited from all interested parties.

The public involvement program will include a full range of involvement activities. Activities will include outreach to local and regional officials and community and civic groups; a public scoping process to define the issues of concern among all parties interested in the project; organizing periodic meetings with various local agencies, organizations and committees; a public hearing on release of the DEIS; and development and distribution of project information via newsletters, Web site, and social media. Specific mechanisms for involvement will be detailed in the public involvement program.

V. Evaluation Criteria

The Indianapolis MPO may seek New Starts funding for the proposed Green Line Project under 49 U.S.C. 5309 and will therefore be subject to New Starts regulations (49 CFR Part 611). MAP–21 (49 USC 5309(d)) requires that projects proposed for New Starts funding be evaluated based on project justification and local financial commitment criteria. Project justification comprises 50 percent of the overall rating and considers mobility improvements, environmental benefits, congestion relief, cost-effectiveness, economic development effects, and existing land

use. The other 50 percent of the FTA New Starts rating reflects local financial commitment, which encompasses the proposed share of the project capital cost that would be funded through non-New Starts sources, the current financial condition of the transit system, the commitment of funds for the project and transit system, and the reasonableness of the project financial plan.

With respect to the FTA project development process, one of the more important changes brought about by MAP–21 was the elimination of the requirement for a standalone Alternatives Analysis that would culminate in the selection of a locally preferred alternative. The FTA will instead rely on the NEPA process for alternatives evaluation. The change will reduce redundancy in the New Starts project development process and streamline the review and selection of a locally preferred alternative.

Marisol Simon,

Regional Administrator.

[FR Doc. 2013–27583 Filed 11–18–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5307

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5307, Application for Determination for Adopters of Master or Prototype or Volume Submitter Plans.

DATES: Written comments should be received on or before January 21, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the form and instructions should be directed to Sara Covington, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Sara.L.Covington@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Application for Determination for Adopters of Master or Prototype or Volume Submitter Plans.

OMB Number: 1545–0200.

Form Number: 5307.

Abstract: Employers whose pension plans meet the requirements of Internal Revenue Code section 401(a) are permitted a deduction for their contributions to these plans. To have a plan qualified under Code section 401(a), the employer must submit an application to the IRS as required by regulation § 1.401–1(b)(2). Form 5307 is used as an application for this purpose by adopters of master or prototype or volume submitter plans.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100,000.

Estimated Time per Respondent: 51 hours, 23 minutes.

Estimated Total Annual Burden Hours: 5,139,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 1, 2013.

Allan Hopkins,

IRS Tax Analyst.

[FR Doc. 2013–27686 Filed 11–18–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Information Collection; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before January 21, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION: To obtain additional information, or copies of the information collection and instructions, or copies of any comments received, contact Elaine Christophe, at (202) 622–3179, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Elaine.H.Christophe@irs.gov*.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and the Internal Revenue Service, as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to take this opportunity to comment on the

proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et seq.*).

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments will become a matter of public record. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Currently, the IRS is seeking comments concerning the following forms, and reporting and recordkeeping requirements:

Title: Direct Rollovers and 20-Percent Withholding Upon Eligible Rollover Distributions From Qualified Plans.

OMB Number: 1545–1341.

Regulation Project Number: EE–43–92.

Abstract: This regulation implements the provisions of the Unemployment Compensation Amendments of 1992 (Pub. L. 102–318), which impose mandatory 20 percent income tax withholding upon the taxable portion of certain distributions from a qualified pension plan or a tax-sheltered annuity that can be rolled over tax-free to another eligible retirement plan unless such amounts are transferred directly to such other plan in a ''direct rollover'' transaction. These provisions also require qualified pension plans and tax-sheltered annuities to offer their participants the option to elect to make ''direct rollovers'' of their distributions and to provide distributees with a written explanation of the tax laws regarding their distributions and their option to elect such a rollover.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, not-for-profit institutions, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 10,323,926.

Estimated Time per Respondent: 13 minutes.

Estimated Total Annual Burden Hours: 2,129,669.

Title: Certain Transfers of Domestic Stock or Securities by U.S. Persons to Foreign Corporations.

OMB Number: 1545–1478.

Regulation Project Number: INTL–9–95 (TD 8702).

Abstract: This regulation relates to certain transfers of stock or securities of domestic corporations pursuant to the corporate organization, reorganization, or liquidation provisions of the internal Revenue Code. Transfers of stock or securities by U.S. persons in tax-free transactions are treated as taxable transactions when the acquirer is a foreign corporation, unless an exception applies under Code section 367(a). This regulation provides that no U.S. person will qualify for an exception unless the U.S. target company complies with certain reporting requirements.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 100.

Estimated Time per Response: 10 hours.

Estimated Total Annual Burden Hours: 1,000.

Title: REG–148867–03 (TD 9327) (Final) Disclosure of Returns and Return Information in Connection With Written Contracts or Agreements for the Acquisition of Property or Services for Tax Administration Purposes.

OMB Number: 1545–1821.

Regulation Project Number: REG–148867–03.

Abstract: The final regulations clarify that redisclosures or returns and return information by contractors to agents or subcontractors are permissible, and that the penalty provisions, written notification requirements, and safeguard requirements are applicable to these agents and subcontractors. Section 301.6103(n)–1(d) of the final regulations require that contractors, agents, and subcontractors who receive returns or return information under the final regulations must provide written notice to their officers and employees of the purposes for which returns or return information may be used and of the potential civil and criminal penalties for unauthorized inspections or disclosures, including informing them of the imposition of punitive damages in the case of a willful inspection or disclosure or an inspection or disclosure which is the result of gross negligence. Section 301.6103(n)–1(e)(3) of the final regulations require that before the execution of a contract or agreement for the acquisition of property or services under which returns or return information will be disclosed, the contract or agreement must be made available to the IRS.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions and Federal, state, local or tribal governments.

Estimated Number of Respondents: 2,500.

Estimated Time per Respondent: 0.1 hr.

Estimated Total Annual Burden Hours: 250.

Title: Disclosure by Tax-Exempt Entity Regarding Prohibited Tax Shelter Transaction.

OMB Number: 1545–2078.

Form Number: Form 8886–T.

Abstract: Certain tax-exempt entities are required to file Form 8886–T to disclose information for each prohibited tax shelter transaction to which the entity was a party.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, State, Local or Tribal Government.

Estimated Number of Respondents: 6,500.

Estimated Time per Respondent: 8 hours, 36 minutes.

Estimated Total Annual Burden Hours: 55,900.

Title: PTIN Supplemental Application For Foreign Persons Without a Social Security Number.

OMB Number: 1545–2189.

Form Number: 8946.

Abstract: Most individuals applying for a Preparer Tax Identification Number (PTIN) will have a social security number, which will be used to help establish their identity. However, paid preparers that are nonresident aliens and cannot get a social security number will need to establish their identity prior to getting a PTIN. Form 8946 is being created to assist that population in establishing their identity while applying for a PTIN.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 20,000.

Estimated Time per Respondent: 5.48 hrs.

Estimated Total Annual Burden Hours: 105,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Approved: November 7, 2013.

Yvette B. Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–27732 Filed 11–18–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8945

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the PTIN Supplemental Application For U.S. Citizens Without A Social Security Number Due To Conscientious Reasons.

DATES: Written comments should be received on or before January 21, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Sara Covington, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington DC 20224, or through the Internet, at *Sara.L.Covington@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: PTIN Supplemental Application For U.S. Citizens Without A Social Security Number Due To Conscientious Reasons.

OMB Number: 1545–2188.

Form Number: 8945.

Abstract: Most individuals applying for a Preparer Tax Identification Number (PTIN) will have a social security number, which will be used to help establish their identity. However, there exists a population of U.S. residents that are religious objectors and do not have social security numbers. Form 8945 is being created to assist that population in establishing their identity while applying for a PTIN.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 5 hrs., 43 min.

Estimated Total Annual Burden Hours: 2,860.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 13, 2013.

Allan Hopkins,

IRS Tax Analyst.

[FR Doc. 2013–27721 Filed 11–18–13; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 78 Tuesday,
No. 223 November 19, 2013

Part II

The President

Proclamation 9057—America Recycles Day, 2013

Federal Register
Vol. 78, No. 223
Tuesday, November 19, 2013

Presidential Documents

Title 3—

The President

Proclamation 9057 of November 14, 2013

America Recycles Day, 2013

By the President of the United States of America

A Proclamation

During the First and Second World Wars, Americans showed their patriotism by participating in scrap drives and salvage collections. A committed citizenry gave up their personal typewriters, joined in volunteer efforts to harvest oil-producing peanuts, and donated old tires in a nationwide push to conserve and repurpose resources vital to our common welfare. Today, we face new threats—to our environment, our health, and our climate—that require all of us to do our part. On America Recycles Day, we carry forward a great national tradition and enlist a new generation of environmental stewards.

A typical American produces more than four pounds of waste each day, and some of this waste, including old computers and cell phones, could damage our health and harm our environment if not recycled properly. Recycling not only reduces pollution, but also saves energy, preserves valuable raw materials, and reduces emissions of greenhouse gases that contribute to climate change. In addition, it spurs economic growth, generating billions of dollars each year and supporting local manufacturers who depend on recycled materials to make their products.

America Recycles Day offers an opportunity for each of us to reflect on the ways our habits shape the world around us. In our homes, offices, and schools, let us strive to make recycling a part of our daily lives. We should reuse or donate when possible, and recycle or compost as much as we are able. Students can get involved by championing waste-free lunches, recycling programs, and collection drives to repurpose resources like used shoes, water bottles, and digital cameras.

Our environmental legacy will not reflect any single policy or initiative; it will be the sum of millions of small actions, the decisions we make each day. Today, let us join with family, friends, and neighbors to make that legacy a strong one.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 15, 2013, as America Recycles Day. I call upon the people of the United States to observe this day with appropriate programs and activities, and I encourage all Americans to continue their reducing, reusing, and recycling efforts throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of November, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2013–27910
Filed 11–18–13; 11:15 am]
Billing code 3295–F4

Reader Aids

Federal Register

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Tuesday, November 19, 2013

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FEDERAL REGISTER PAGES AND DATE, NOVEMBER

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List November 15, 2013

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